

*United States Court of Appeals
for the Second Circuit*



APPENDIX

74-1550

74-1550

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
CARMINE TRAMUNTI, et al.,
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DEFENDANTS-APPELLANTS' JOINT APPENDIX
Vol. T(14) - Pages 2045 to 2229

353
HERBERT SIEGAL
Attorney for Defendant-Appellant
Carmine Tramunti
17 John Street
New York, New York 10038
RE 2-5330

NANCY ROSNER
Attorney for Defendant-Appellant
Louis Inglese
401 Broadway
New York, New York 10013
925-8844



(6)

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IVAN S. FISHER
Attorney for Defendant-Appellant
Donato Christiano
401 Broadway
New York, New York 10013
925-5937

ROBERT L. ELLIS
Attorney for Defendant-Appellant
Angelo Mamone
17 East 63rd Street
New York, New York 10021
838-2323

FRANK A. LOPEZ
Attorney for Defendant-Appellant
Joseph DiNapoli
31 Smith Street
Brooklyn, New York 11201
237-9500

THEODORE ROSENBERG
Attorney for Defendant-Appellant
Frank Pugliese
31 Smith Street
Brooklyn, New York 11201
858-0589

KENNETH E. WARNER
Attorney for Defendant-Appellant
Joseph Ceriale
875 Avenue of the Americas
New York, New York 10001
244-4444

ROBERT FISKE
Attorney for Defendant-Appellant
John Gamba
One Chase Manhattan Plaza
New York, New York 10005
422-3400

GEORGE DAVID ROSENBAUM
Attorney for Defendant-Appellant
Vincent D'Amico
51 Chambers Street
New York, New York 10007
BE 3-8120

MICHAEL C. DOWD
Attorney for Defendant-Appellant
Frank Russo
120-10 Queens Boulevard
Kew Gardens, New York 11415
793-2900

ROBERT LEIGHTON
Attorney for Defendant-Appellant
Warren C. Robinson
15 Park Row
New York, New York 10038
267-6016

GARY SUNDEN
Attorney for Defendant-Appellant
William Alonzo
401 Broadway
New York, New York 10013
925-4848

EDWARD PANZER
Attorney for Defendant-Appellant
Hattie Ware
299 Broadway
New York, New York 10007
349-6128

MARTIN JAY SIEGAL
Attorney for Defendant-Appellant
John Springer
250 West 57th Street
New York, New York 10019
586-1414

HARRY POLLAK
Attorney for Defendant-Appellant
Henry Salley
299 Broadway
New York, New York 10007
BE 3-0386

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2 UNITED STATES OF AMERICA
3 vs.
CARMINE TRAMUNTI, et al.

73 Cr. 1099

4
5 New York, February 14, 1974;
10.00 A.M.
6

7 Trial resumed.
8
9 (In the robing room.)
10
11 MR. DOWD: Your Honor, I have an application
12 and that is in respect to a severance of Count 26, the
13 substantive count of the indictment, which was made
14 prior to trial, I believe prior to one of the days of the
15 motion to suppress, made by Mr. Phillips. That motion
16 was made in my absence. I didn't know the grounds for it.
17
18 I have consistently asked for particulars in
19 respect to the government's allegations so that I could
20 determine whether or not the government intended to
21 prove an alleged series of sales which occurred in January,
22 1973, as a part of the conspiracy count of this indict-
23 ment.
24
25 The other day, as I pointed out to your Honor,
I learned that the government does indeed intend to attempt
to prove that series of sales by putting in a New York
City Policeman, Albert Cassella.

2 Count 26 is a substantive count and refers to
3 one of those sales which the government intends to prove
4 as an act of the conspiracy, namely, the sale of January
5 10, 1973, of approximately 16 ounces of heroin.

6 THE COURT: Your question is if it stays in
7 it becomes a question of double jeopardy as far as the
8 state is concerned and if it goes out the state can
9 prosecute separately, is that correct?

10 MR. DOWD: I have several questions. If Count
11 26 stays out there is a possibility of a triple prosecution,
12 namely, you could prosecute for conspiracy, you could
13 prosecute in the state court, and then you could come
14 back and prosecute in the federal court. All of the
15 decisions indicate that you could probably succeed in
16 all three, because there seems to be no protection from
17 a subsequent state-federal prosecution on a substantive
18 count.

19 Now, my point is this: Rules 813 and 14 would
20 seem to indicate that there is no reason in the world why
21 such a situation should not be cured by the trial of the
22 substantive count at the trial of the conspiracy when
23 the facts to be proved are identical to the facts to be
24 proved in the substantive count.

25 The only objective of the government in this

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2 case is to prosecute the defendant twice and to assist
3 the state prosecutor in a prosecution twice. I submit
4 that that is no legitimate reason for severing that count
5 and as such it works a very hard prejudice on my client,
6 for a number of reasons. One, he can be sentenced
7 three times if convicted three times for the same crime.
8 I don't think a defendant should have to rely on the good
9 will of the government to say that they are not going to
10 do this and not going to do that.

11 Also, it works an incredible and intolerable
12 financial burden on the defendant to have to defend or
13 hire an attorney to defend himself possibly three times.

14 As I say, there is no question in the world
15 that the facts to be proved in respect to the conspiracy
16 as it concerns these three sales are identical, absolutely
17 identical to those facts to be proved in respect to the
18 substantive count.

19 I had no opportunity really to oppose the
20 motion for a severance because it was made in my absence
21 by Mr. Phillips. I did not know the reasons. This is
22 one of the reasons I kept insisting or asking for particulars
23 in this case, so that I could determine whether in the
24 conspiracy count Mr. Phillips intended to prove these
25 things.

2 MR. PHILLIPS: Your Honor, just to set the
3 record straight, the motion was made by the government
4 to sever Count 26. It was made on January 7th at a pre-
5 trial conference that your Honor had set up well in
6 advance.

7 My recollection is that Mr. Dowd was present,
8 but if he was not, I specifically recall him at a sub-
9 sequent time being informed that the government had moved
10 to sever it, that it had been severed by the Court, and
11 that still was well before trial.

12 This is the first time that Mr. Dowd has raised
13 any objection to the government's notion to sever Count
14 26.

15 THE COURT: No. I think he did it the other
16 day, or suggested it the other day.

17 MR. DOWD: Immediately when he talked about
18 Cassella testifying.

19 MR. PHILLIPS: Furthermore, there is no secret
20 about Al Cassella being a government witness in this case.
21 All the tapes where Al Cassella was wired up and talking
22 to Mr. Russo were turned over to Mr. Dowd. All but two
23 were turned over prior to trial and the other two were
24 turned over about two weeks ago.

25 I am telling Mr. Dowd now, if he still is in

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2 the dark about Mr. Cassella, he is going to be a witness,
3 he is going to be a witness regarding his negotiations
4 with Frank Russo and his ultimate purchase on January 10th
5 of some narcotics.

6 In that connection I want to state for the
7 record that Mr. Dowd has now all of the tapes of Al
8 Cassella which would constitute 3500 material as to
9 Cassella and if counsel want those with respect to Cassella's
10 3500 material they should contact Mr. Dowd.

11 MR. DOWD: Your Honor, my point is not that I
12 wasn't given the material. My point --

13 THE COURT: I understand your points. I think
14 I am clear.

15 MR. DOWD: I repeatedly was asking the govern-
16 ment, "Do you intend to prove this," so I could make an
17 intelligent decision with respect to my arguments in
18 respect to the severance.

19 THE COURT: I understand.

20 MR. DOWD: I will tell you, your Honor, my
21 client can in no way afford to defend another case.

22 I just brought something in. You know, in
23 respect to statements by the government in various cases
24 and the Attorney General indicating a policy, in Petit vs.
25 United States indicating a policy that the government should

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2 look with disfavor on a situation --

3 THE COURT: What is the cite on that?

4 MR. DOWD: 361 U.S. 529. I would also cite
5 Orlando vs. United States. It's the Ninth Circuit,
6 1967. I don't have the Federal 2nd citation. I am
7 sorry. I haven't been able to get it.

8 THE COURT: I will find it.

9 MR. DOWD: You know, the basic policy is a
10 statement by the Attorney General of the United States in
11 1959 that it's neither fair nor reasonable for the govern-
12 ment to attempt to prosecute any individual twice for sub-
13 stantially the same act. This isn't a case of substantially
14 the same act. This is the identical act.

15 THE COURT: I understand you. I understand
2 16 your argument.

17 MR. DOWD: It seems to me it's patently un-
18 fair. It's difficult for me to be reasonable and
19 controlled when I see what the government is trying to do.
20 It's uncivilized, if I may say so.

21 MR. PHILLIPS: As your Honor may or may not
22 have gathered during the course of this trial, Mr.
23 Rogers' office and our office do not work hand in glove,
24 as Mr. Dowd would like to indicate.

25 MR. DOWD: Your Honor, that is not true.

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2 Mr. Miller tells me just the opposite.

3 THE COURT: All right. That is enough.

4 I understand your point. I have a threshold
5 problem which is a very difficult one. The threshold
6 problem is can you resuscitate a count when you are half-
7 way through a trial.

8 MR. DOWD: Your Honor, there has been no evidence
9 at this point in respect to this.

10 THE COURT: I am aware of that. However, that
11 is my threshold problem, which I am going to have to do
12 some research on.

13 MR. DOWD: It was not unreasonable for me to
14 consider that having severed that count that indeed they
15 intended to prosecute twice and the way they were going
16 to do it was not offer evidence in even the conspiracy
17 count about that, these three sales, and let the state
18 prosecute.

19 THE COURT: Believe it or not, I got your point.

20 MR. DOWD: My alternative motion would be
21 this: if your Honor does not grant my application,
22 then my other application would be to bar the government
23 from offering any evidence in respect to these alleged
24 sales in January, 1973, on the grounds of surprise.

2 ; MR. PHILLIPS: I would also like to point
3 out for the record, your Honor, that the government
4 turned over on December 20th all scientific reports,
5 that is, state chemists' analyses of the narcotics
6 that Russo allegedly sold to Casella. So I can't
7 understand how Mr. Dowd is surprised in any way whatsoever
8 with respect to this. The government wouldn't be turn-
9 ing over the state chemical analyses if it did not intend
10 to prove it.

11 MR. DOWD: Your Honor, I don't know why the
12 government would not consent to have my application
13 granted, unless they had a very devious, unwholesome
14 and, I repeat, uncivilized intent.

15 THE COURT: All right. I have your point.
16 You're next.

17 MR. DOWD: Judge, one thing. The reason
18 I wanted to make sure I got it in this morning is I
19 think Pannirello will bring up, although probably not
20 directly, will bring up at least some testimony, will
21 offer some testimony concerning that January. I
22 wanted to bring it to your attention.

23 MR. SCHWARTZ: I believe Mr. Engel re-
24 ceived a report last night from the attending physician
25 as concerns Al Greene and I believe he has a copy

2 and might indicate same for the record.

3 In substance, it was my understanding that
4 Al Greene suffered a fractured skull and would be unable
5 to appear in this courtroom for at least a two-week
6 period of time.

7 That is my report.

8 MR. ENGEL: For the record, I called Dr.
9 Richard Kaufman at the judge's request yesterday to find
10 a doctor in or near the area of Teaneck, New Jersey.
11 Dr. Kaufman is the chief neurologist at the Holy Name
12 Hospital and he agreed to perform the examination.

13 He called me back about 6 or so yesterday
14 evening and informed me that Al Greene, the defendant,
15 had suffered a fractured skull and that that fracture
16 was confirmed by an x-ray. He also stated that the
17 defendant Al Greene was uncomfortable and complained
18 of headaches.

19 He said that it was his opinion that the defendant
20 could not ably assist in his own defense and
21 that it would be a risk to his health or his life if he
22 were to appear for trial. He said that while the
23 defendant was compos mentis, he was not in a position to
24 leave the hospital, as a skull fracture often entails fur-
25 ther complications which require observation for one,

2 probably two, and perhaps three weeks.

3 That was his report.

4 MR. SCHWARTZ: I might further add for the
5 record that I tried to reach Al Greene last night in the
6 hospital and I was told that he is in a semicomatose state.
7 So that any discussion that I might even possibly
8 have with him would be fruitless at this point.

9 MR. ENGEL: For the record, your Honor, I
10 called the Teaneck Police Department last night and
11 their information is that the defendant Al Greene was
12 found at his home the night before by three police officers
13 and an ambulance was sent with two ambulance personnel in
14 it and they picked him up and took him to the hospital.

15 At the time that he was picked up our in-
16 formation is conflicting as to the circumstances of the
17 fall. His wife stated to the police officer that
18 they had both been watching television and that the de-
19 fendant got up, left and came back near the stairs and
20 then all of a sudden fell down the stairs. There
21 was that report. There was also some evidence that the
22 defendant scraped his face in a way that suggested the
23 defendant did not fall on wood or on stairs, but on
24 concrete.

25 One officer stated that it appeared to him the

2 defendant had been drinking. Two other officers said
3 that they found no such evidence.

4 Also, the information the Police Department
5 in Teaneck has as to his condition is that some personnel
6 in the Teaneck hospital informed Lieutenant Burke of the
7 Teaneck department that the defendant was able to talk
8 and talk freely and complained only of a small tingling
9 in the fingers and that otherwise he was mentally alert
10 and able.

11 MR. SCHWARTZ: I would only further add that
12 if the impartial physician has found a radiology report
13 indicating a fractured skull, then we have to assume
14 that Al Greene does have a fractured skull and that
15 all of the side symptoms and the possibility
16 of subdural hematomas are present, etc., and therefore
17 he could not stand trial.

18 THE COURT: All right. That is all
19 very nice. What do I have to decide? All I have
20 is reports from everybody.

21 MR. SCHWARTZ: On the defendant's behalf
22 I would only ask for a continuance.

23 THE COURT: No. In a trial of this size
24 I can't grant a continuance, and I will not.

25 Shall we go ahead.

2 MR. SCHWARTZ: It is my further contention
3 that I don't see how I could possibly go ahead on behalf
4 of the defendant since he certainly has his constitu-
5 tional right of confrontation of witnesses in the
6 case and I can't take it upon myself to waive that con-
7 stitutional privilege on his behalf.

8 THE COURT: There is some evidence here
9 that the man was drinking. There is a question as to
10 whether he produced the state in which he fell down the
11 stairs voluntarily, if he was drunk and just collapsed.
12 Isn't that basically a voluntary absence?

13 MR. SCHWARTZ: I haven't done an independent
14 investigation as to the cause of his fall. However,
15 Mr. Engel did indicate that of three police officers,
16 two officers indicated that there were signs of drinking
17 and --

18 MR. DOWD: Two said there were no signs.

19 MR. SCHWARTZ: Yes, that is what I said, two
20 said there were no signs of drinking. In view of that
21 fact, and what knowledge I might have of skull frac-
22 tures, I think that the police officer who did indicate
23 the possibility of drinking is certainly not qualified to
24 make that judgment since most of the reactions that occur
25 from a skull fracture are generally, as I understand it,

2 drowsiness, loss of feeling in the membranes, a flushed
3 face, etc., all of which are similar to indications of
4 drinking. But certainly this police officer is not
5 qualified to make that judgment. The only judgment
6 that really could be made would be a serological
7 examination by the hospital in question or some sort of
8 breath analyzer determination by the police force, by the
9 police officers, which I have to assume was not made
10 or the government, I am sure, would introduce it at this
11 point.

12 MR. ENGEL: No, we have no information that
13 a Breathalyzer test was given to the defendant. When
14 the defendant was found he was in a semicomatose state and
15 it did not occur to the police officers to do anything
16 else than to get him to the hospital. They weren't
17 aware that he was a defendant.

18 THE COURT: I would assume, however, that the
19 hospital took blood samples.

20 MR. ENGEL: I don't know that, your Honor.

21 THE COURT: I don't either.

22 MR. ENGEL: According to Lieutenant Burke,
23 they were chary about giving out much information about
24 the defendant in terms of his records and that sort of
25 thing.

2 THE COURT: You mean the hospital.

3 MR. ENGEL: Yes, the record department.

4 THE COURT: Would you arrangement for a
5 waiver of the hospital record?

6 MR. SCHWARTZ: I don't believe it is within
7 my province to give a waiver on behalf of my client for
8 a physician-patient report. Certainly I would consent
9 to same, but I believe the hospital would require that
10 he himself present a waiver to them before they release
11 any records.

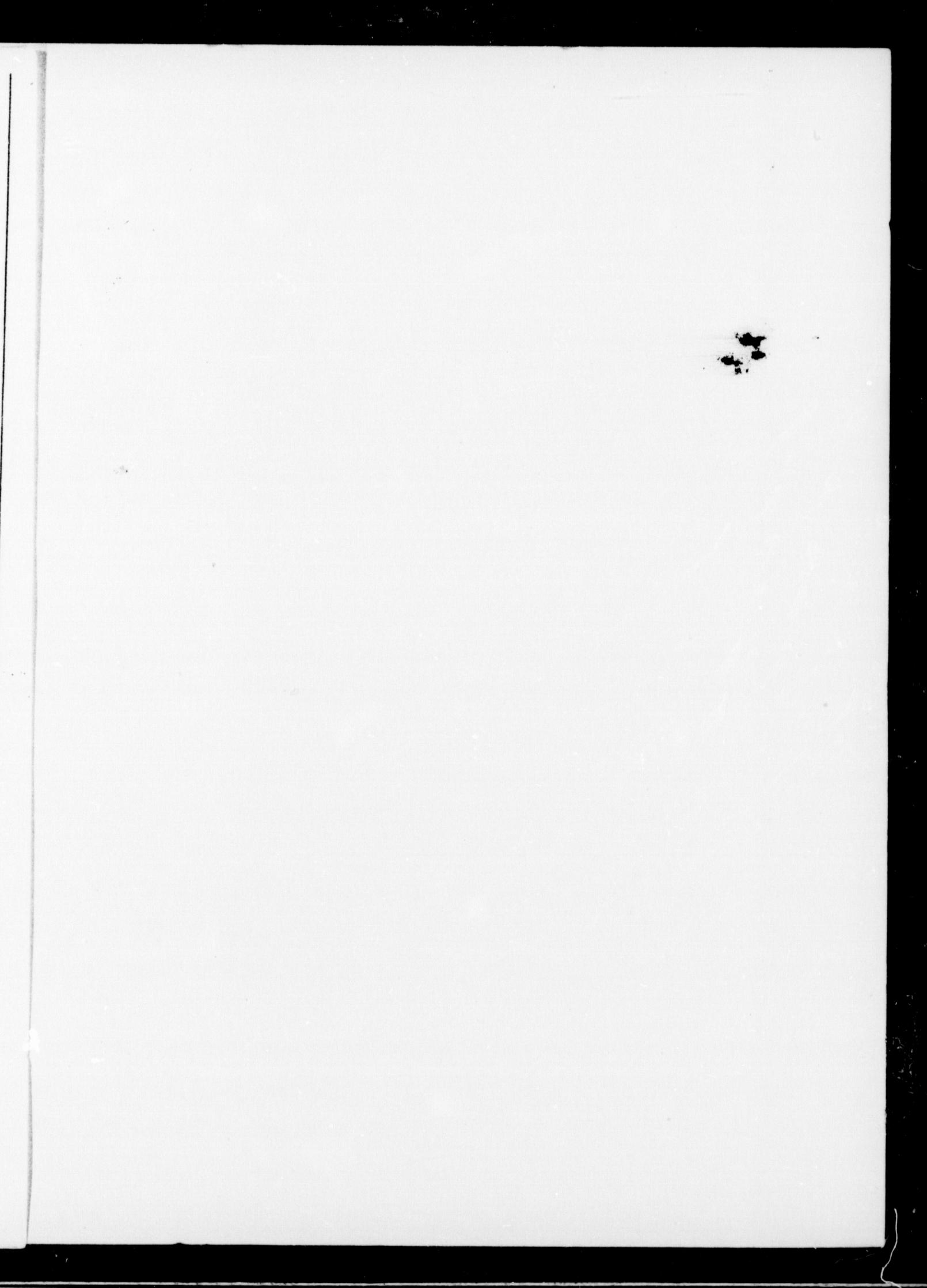
12 THE COURT: Yes, but I can certainly recom-
13 mend it to him.

14 MR. SCHWARTZ: Yes, I would certainly do
15 that. I have no reason to believe that my client in
16 any way purposely tried to deter this trial. I have
17 as much knowledge as the government or the court as
18 to actually what occurred. My information is obtained
19 the same as the government's, by telephone call.

20 MR. CURRAN: Your Honor, might I make a
21 suggestion to the court?

22 THE COURT: Sure.

23 MR. CURRAN: It seems to the government
24 that it would be helpful to find out some more facts and
25 exactly what the defendant's problems are right now, if



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2 any, if the court were to speak directly to the doctor who
3 is treating the defendant and question him, even by
4 telephone, to ascertain exactly what happened and exactly
5 where things stand right now. For example, I don't
6 know, but it seems to me that if all that he is doing
7 is resting in the hospital that he could receive
8 just as good medical treatment from the federal government
9 and he could rest in the courtroom during the trial.
10 I don't know. But it seems to me we should get some
11 more facts.

12 MR. SCHWARTZ: Can we go off the record for
13 a second?

14 THE COURT: Sure. THE COURT:
15 (Discussion off the record.)

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2 MR. ENGEL: I would like to put this on the
3 record.

4 Dr. Kossman told me that he should stay in the
5 hospital for observation for complications and that was
6 very much the thrust of his reasoning as to why he should
7 not come to trial.

8 MR. SCHWARTZ: I don't know. I mean, I'm
9 certainly not competent to give medical evidence, but
10 I don't know of a doctor worth his salt who is going to
11 let a man out of the hospital one or two days after they
12 have evidence of a fractured skull, unless they put him under-
13 observation, because if there is a subdural hematoma the
14 man can go into a coma and the chances are he will die,
15 and the only way they can tell that, as far as I know, is
16 by taking a spinal tap to determine whether there is
17 any blood in the spinal column, and I would assume that
18 that's what they are watching for because they know up to
19 a two-week period a man can actually check himself out of
20 the hospital, walk away and drop dead two weeks
21 later, and it has happened not only from blows on the head
22 but from people who have landed on their buttocks and
23 received skull fractures, and it is something to be
24 watched.

25

MR. CURRAN: Your Honor, that is exactly why

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2 we submit why your Honor should speak to the doctor to find
3 out exactly what happened in the past and what the
4 specific prognosis is for the future. It may be all as
5 bad as Mr. Schwartz says it is; it may not. We are
6 all speculating.

7 THE COURT: We are.

8 MR. SCHWARTZ: It is sort of silly to watch
9 the man in court to see if he is going to keel over to
10 determine whether it is that serious or not.

11 MR. PHILLIPS: It is silly to be talking
12 in hypothetical terms, too, until we find out what the
13 facts are.

14 MR. SCHWARTZ: We know what a fractured
15 skull is and all the ramifications of a skull fracture.
16 It is certainly not a whiplash injury.

17 MR. DOWD: May I add one point?

18 Just with respect to your considerations of
19 the threshold question, I point out that the jury at this
20 point has not been advised as to the particulars of the
21 indictment and my argument as to Mr. Phillips' opening
22 that he appeared to be a customer of MR. Butch
23 Pugliese, that one-line opening would in no way misinform
24 the jury if they have any information from that as to
25 what is taking place.

2 There is no possible prejudice, I submit, on
3 the part of the government at this point and I say
4 that theoretically, at least, most of our laws and
5 rules developed over the years have been so that there
6 should be some protection to the defendant, and since
7 there is no possible prejudice to the government at this
8 time I would think that that should go into your con-
9 sideration process.

10 THE COURT: You mean I should use common
11 sense?

12 MR. DOWD: Yes, your Honor.

13 THE COURT: Who has the doctor's number?
14 Let me find out what is going on.

15 (Discussion off the record.)

16 (In the robing room.)

17 THE COURT: This is on the record.

18 Indicate that Mr. Schwartz is here.

19 I talked to the doctor and he indicates
20 that there is a small fracture of the temporal bone in
21 the skull. There are no neurological findings what-
22 soever.

23 He has indicated that Greene must have hospitali-
24 zation for a period of up to seven days. He will not
25 do a spinal tap, claiming that spinal taps are passe.

2 You see, you are not keeping up-to-date
3 with medicine.

4 He tells me that your client claims that
5 he does not know how he got hurt, and the doctor indicates
6 there is no evidence that he saw that he was drunk at
7 the time he fell. Now you have the whole picture.

8 MR. SCHWARTZ: Off the record.

9 (Discussion off the record.)

10 MR. PHILLIPS: I would just like to briefly
11 state on the record that it seems rather suspicious
12 that three weeks we hear evidence and Al Greene's name is
13 not mentioned once, on the eve of the day that he is
14 going to be mentioned he all of a sudden falls down or what-
15 ever happens to him and finds himself in a hospital and
16 doesn't even remember how it is done or how it happened
17 how it came about that he received this fracture of the
18 skull.

19 THE COURT: I find it suspicious, too. So
20 what? What am I to do? Here I am faced with the
21 problem.

22

23

24

25

2B 2 MR. PHILLIPS: We would move to proceed with
3 the trial, your Honor. We consider that the circumstances
4 are sufficiently suspicious that this would constitute a
5 voluntary absence from the trial and the trial should
6 move on in his absence.

7 MR. SCHWARTZ: Your Honor, there isn't one
8 scintilla of evidence that there is anything suspicious
9 about it. I mean, people by the thousands have falls
10 and accidents every day in the week. There isn't one
11 basis for suspicion here, except that somebody has
12 indicated that one police officer made a statement that
13 he is not qualified to make, and your Honor spoke to a
14 qualified physician who certainly would have indication
15 if there was anything of a suspicious nature, and it is
16 not unusual for the individual himself to indicate that
17 he doesn't know how it happened. I mean, a fall occurs
18 very quickly and if the man was rendered unconscious
19 certainly he doesn't know what happened.

20 Besides that, again, I don't have the right to
21 allow anybody to interfere with the physician-patient
22 processes and the only person who can really a doctor to
23 reveal his record would be the defendant himself, and I
24 think if the defendant has a fractured skull and the
25 attending symptoms, I don't even thing he is qualified to

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2 speak as to what happened. He probably is -- if he is in
3 a semi-comatose state, he certainly doesn't know what the
4 questions are being asked of him.

5 I would move for a continuance and I think the
6 defendant is entitled, certainly, to be confronted by his
7 witnesses. The witness that is appearing at the present
8 moment is the beginning of the government's case against
9 my client and certainly is the most important phase of the
10 trial as far as he is concerned, and I think in view of the
11 fact that there is no evidence of suspicion, there is no
12 evidence whatsoever that this accident occurred by any
13 suspicious nature, that the individual certainly is
14 entitled to a continuance.

15 If I continue with the trial, certainly I
16 believe it is grounds for subsequent appeal on my client's
17 behalf. I am certainly not in any position to consent
18 to anything except to ask for a continuance on his
19 behalf.

20 THE COURT: Off the record.

21 (Discussion off the record.)

22 THE COURT: Let us go back on the record.

23 Under all the circumstances, I believe that the
24 motion for a continuance must be denied.

25 On the Court's own motion, however, I will grant

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2 a severance to Al Greene and declare a mistrial.

3 I am not happy about it, but I see no other way
4 out.

5 Other than that, the trial will continue.

6 MR. PHILLIPS: We have one application with
7 respect to that, your Honor.

8 We would ask that Mr. Greene's bail be revoked
9 and that he be remanded to the custody of the United States
10 Marshal when he is released from the hospital in New
11 Jersey.

12 We are also prepared to try Al Greene as soon
13 as the present case is completed and Al Greene is physically
14 able to stand trial.

15 MR. SCHWARTZ: Your Honor, in answer to that,
16 I would say that I don't think there has been an instance
17 when Al Greene hasn't been here and I don't think the onus
18 should be upon anyone to indicate that this failure of his
19 to appear was anything but an unfortunate incident. I
20 have no reason to suspect that he won't be present at any
21 time that the government wants to try his case and I
22 certainly don't think he should be penalized by having a
23 revocation of bail. There is no evidence whatsoever that
24 he was trying to flee from this jurisdiction or in any way
25 trying to impede this trial.

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2 THE COURT: I hear you. I don't think I am yet
3 in possession of sufficient facts to make a determination
4 as to that. I will reserve on your motion, Mr. Phillips.

5 Do we have something else going on?

6 I have to get Gary Sunden out of here in order
7 to get him upstairs to the Court of Appeals. I would like
8 to finish, at least, the cross-examination of this one
9 witness. Can we take it up later?

10 MRS. ROSNER: Sure.

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2 (In open court; jury not present.)

3 THE COURT: Mr. Clerk, here is an order. Mark it
4 filed in court.

5 Mrs. Rosner, would you take the third copy of
6 the order, which I also signed, make copies and give them
7 to the assigned counsel for attachment to their CJA forms.

8 MRS. ROSNER: I will, your Honor.

9 THE COURT: Bring in the jury.

10 (Jury present.)

11 THE COURT: Good morning, ladies and gentlemen.
12 My apologies for our late start today. It's my fault.

13 A L B E R T L O G A N, resumed.

14 THE COURT: Agent, you recall you were placed
15 under oath yesterday. That oath remains today. All
16 right?

17 THE WITNESS: Yes, sir.

18 THE COURT: Mr. King, do you wish to inquire?

19 MR. KING: May I proceed, Judge?

20 THE COURT: Yes, please do.

21 CROSS EXAMINATION

22 BY MR. KING:

23 Q Good morning, Agent Logan.

24 A Good morning.

25 Q I have a hearing impairment. Would you please

1 hp2

Logan-cross

2 keep your voice up.

3 Agent, have you ever testified in court before on
4 behalf of the government?

5 A Yes, I have.

6 Q Approximately how many times would you say?

7 A More than 25 times.

8 Q I represent one of the defendants here and I am
9 about to put a question to you the response to which should
10 be either a yes or a no and no further volunteering after
11 that. If you feel that the question I put to you cannot be
12 answered --13 MR. FORTUIN: I object to Mr. King instructing
14 the witness.

15 THE COURT: No.

16 Q -- cannot be answered by a yes or no, just tell
17 me before you give me the answer. All right?

18 A Yes.

19 Q In the course of your investigation of this case
20 did you at any time see one of the defendants here, John
21 Gamba, who was also known by the nickname of Sinatra?
22 Yes or no.23 A I don't think I could answer that with a yes or
24 no.

25 Q Sir?

2 A I don't think I could answer that question with
3 a yes or no.

4 Q You don't think you can answer whether or not
5 you saw John Gamba in the course of your investigation?

6 THE COURT: No, that is not what he said. He
7 doesn't think he can answer it yes or no.

8 Q Have you seen him?

9 A I don't know him. I do not know him.

10 Q May I infer from your answer that you do not
11 know him that you did not see him during the course of
12 your investigation nor speak to him? Is that correct?

13 A Not by that name. If I did speak to anyone else,
14 he was not introduced to me by that name.

15 MR. KING: Mr. Gamba, will you please stand up.

16 Q Have you ever seen that man?

17 A Not that I recall, no.

18 Q Sir?

19 A No, not that I recall.

20 Q During the course of your conversations with
21 Harry Pannirello that you talked about yesterday did he
22 during one of your sessions with him -- and when I say
23 "sessions" I mean this is before he was arrested -- did he
24 tell you that he had been in the narcotics business for
25 some ten years and had never been arrested?

1 hp4

Logan-cross

2 A Yes, he did state that.

3 MR. KING: I have no further questions.

4 THE COURT: All right. Mr. Panzer.

5 CROSS EXAMINATION

6 BY MR. PANZER:

7 Q Agent Logan, you are a special agent of the
8 Drug Enforcement Administration, is that correct, sir?

9 A Yes, that is correct.

10 Q And as a special agent of the Drug Enforcement
11 Administration you carry a gun?

12 A Yes, I do.

13 Q You carry a badge?

14 A Yes, I do.

15 Q How much education have you had?

16 THE COURT: I am sorry. What was the question?

17 Q How much education have you had?

18 THE COURT: I am sorry. What was the question?

19 Q How much education have you had?

20 A I have a BS Degree.

21 Q That is a Bachelor of Science, is that correct?

22 A That is correct.

23 Q On January 8, 1973, you were working in an
24 undercover capacity, is that correct?

25 A That is correct, yes.

2 Q At that time you were using an assumed name,
3 right?

4 A I used my first name, Al.

5 Q And you were working with a fellow by the name
6 of Tennessee, right?

7 A Yes.

8 Q Tennessee was assisting you in your undercover
9 work, is that correct?

10 A That is correct, yes.

11 Q Is Tennessee a special agent of the Drug Enforce-
12 ment Administration?

13 A No, he is not.

14 Q Does he carry a badge like yourself?

15 A No, he does not.

16 Q Does he carry a gun?

17 A Not to my knowledge.

18 Q This fellow Tennessee you refer to in your
19 reports as a cooperating individual, isn't that true?

20 A Yes.

21 Q This fellow Tennessee is a drug dealer, isn't
22 he?

23 A I don't know.

24 Q He was working with you in an undercover capacity,
25 right?

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Logan-cross

2 A Yes.

3 Q He had been arrested, hadn't he, at some point?

4 A No.

5 Q How did you first meet Tennessee?

6 A I introduced myself to him.

7 Q Where?

8 A In Landover, Maryland.

9 Q Give us the specific place.

10 A At his home in Landover, Maryland.

11 Q You say that you don't know that Mr. Tennessee
12 was a drug dealer, is that your testimony?

13 A Do I know it's a fact? No.

14 Q Had you heard that he was a drug dealer?

15 A Yes, I heard he was involved.

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2 Q And you heard it from your brother officers,
3 right?

4 A That is correct, yes.

5 Q And you had heard that he had been arrested by
6 your brother officers, right?

7 A No.

8 Q So that when you refer to him as a cooperating
9 individual you are being very nice to him, aren't you?

10 MR. FORTUIN: Objection, your Honor.

11 THE COURT: Sustained.

12 Q If you were applying for a loan you wouldn't
13 put Mr. Tennessee down as one of your references, would
14 you?

15 MR. FORTUIN: Objection, your Honor.

16 THE COURT: That is argumentative.

17 Q When you were working in this undercover
18 capacity Tennessee he introduced you to a fellow by
19 the name of Harry Pannirello, right?

20 A Yes, he did.

21 Q Another cooperating individual, right?

22 MR. FORTUIN: Can we fix the time on this?

23 THE COURT: At the time of the introduction
24 by Tennessee.

25 Q January 8, 1973, Ridgefield, New Jersey.

2 THE COURT: At that point was Harry Pannirello a cooperating individual?

4 THE WITNESS: No.

5 Q But he became a cooperating individual, right?
6 You heard that, right?

7 A I heard that, yes.

8 Q Like Tennessee, right?

9 A Yes.

10 Q Isn't it also a fact that Mr. Pannirello is
11 going to be the next witness after you for the govern-
12 ment?

13 MR. FORTUIN: Objection, your Honor.

14 Q Have you heard that?

15 MR. FORTUIN: Objection.

16 THE COURT: I will let him testify.

17 Do you know, first of all?

18 THE WITNESS: Yes.

19 THE COURT: You do know. Is he going to
20 be the next witness?

21 MR. FORTUIN: Yes, your Honor, he is.

22 THE COURT: All right, fine.

23 Q And he is another cooperating individual, right?

24 A Yes, he is.

25 Q If you had to write a report about him you

2 would say he is a cooperating individual, right?

3 THE COURT: I think he just answered
4 that. He said yes.

5 Q When you were with Mr. Tennessee and you
6 spoke to Harry Pannirello back in January, January 8, 1973,
7 didn't Pannirello say to Tennessee, "I can get you all the
8 drugs you want"?

9 A Yes, I believe he did.

10 Q "I can get you 10 kilograms if you want it,"
11 right?

12 A Yes.

13 Q You were present at that conversation, right?

14 A Yes.

15 Q That is the cooperating individual, Mr.
16 Pannirello, right, that we are talking about?

17 MR. FORTUIN: Objection, your Honor.

18 THE COURT: No, I will permit it.

19 Q Would you answer my question, sir, please?

20 THE COURT: That is the same Mr. Pannirello
21 who you expect to be the next witness, is that correct?

22 THE WITNESS: Yes, it is.

23 THE COURT: All right.

24 Q Then you had a discussion with Mr. Pannirello
25 about you purchasing drugs from Mr. Pannirello, right?

2 A Yes.

3 Q And that occurred on January 8, 1973, right?

4 A Yes, it did.

5 Q You were supposed to buy a quarter of a kilo-
6 gram of drugs for \$9500, right?

7 A Yes.

8 Q And it was supposed to be delivered to you by
9 somebody else at the same location in New Jersey somewhere
10 around January 10, 1973, right?

11 THE COURT: You want the same location or the
12 same town?

13 Q The same town, Ridgefield, New Jersey?

14 A Yes, the same town, January 10th.

15 Q This again was said to you by the government's
16 cooperating witness, Mr. Harry Pannirello, right?

17 A Yes, it was.

18 Q There came a time that January 10th came, right,
19 1973?

20 A Yes, it did.

21 Q At that date a fellow by the name of James
22 Provitero in a beat-up stationwagon delivered a quarter
23 kilogram of heroin to you or your brother officers?

24 A Yes, he did.

25 Q If you had to refer to Mr. Provitero in your

2 report you would call him a cooperating agent, right?

3 MR. FORTUIN: Could we fix the time on this
4 your Honor?

5 THE COURT: Yes. When do you want it,
6 now?

7 MR. PANZER: Right now, yes, Judge.

8 THE COURT: All right. If you had to
9 refer to James Provitero now would you call him a cooperat-
10 ing individual?

11 THE WITNESS: Yes, I would.

12 Q But he wasn't a cooperating individual back on
13 January 10, 1973, was he? January 10, 1973, was he?

14 A Not to my knowledge.

15 Q No. He was a suspected drug dealer, right?

16 A Yes.

17 Q You were out to make a case against him, right?

18 A Right.

19 Q And he delivered a quarter of a kilogram of
20 drugs to you, right?

21 A Yes, he did.

22 Q When you were having discussions with Mr.
23 Harry Pannirello, the next witness for the government,
24 he told you to use some code when you were referring to
25 drugs, right?

2 A Yes, he did.

3 Q He said shirts, right, a dozen shirts means one
4 kilogram of drugs, right?

5 A Yes, he did.

6 Q That was his language, he suggested that,
7 not you, right?

8 A Yes.

9 Q In fact, at one point in your conversations
10 with cooperating witness Harry Pannirello he told you
11 how to run the drug business, right?

12 A Yes, he did.

13 Q He was giving you instructions, right?

14 A Yes.

15 Q He told you that he had been in the business
16 for 10 years, right, and never been arrested, right?

17 A Yes, he did.

18 Q In fact, he asked you whether you had ever been
19 arrested, right?

20 A Yes, he did.

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Logan-cross

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2 Q And at one point he gave you a list with
3 prices for drugs on it, isn't that also true?

4 A Yes, he did.

5 Q Now, we are talking about the fellow that you
6 refer to as a cooperating individual, the next witness
7 for the government, right? Is that who we are talking
8 about?

9 A Yes.

10 Q Now, there came a time that you had further
11 discussions with Mr. Pannirello concerning the delivery
12 of 3/8ths of a kilogram of drugs, right?

13 A Yes.

14 Q And the price for that was supposed to
15 be \$14,250, right?

16 A Yes.

17 Q And that was supposed to be given to you on
18 consignment, right?

19 A Yes.

20 Q And there was a delivery of 3/8ths of a kilogram
21 of drugs, is that correct?

22 A That is correct.

23 Q And that, again, was done by Mr. Jimmy Provi-
24 tero?

25 A Yes.

1 gta Logan-cross

2 Q Same location, Ridgefield, New Jersey, right?

3 A Yes.

4 Q And if I were to ask you whether you would
5 consider him a cooperating individual at this point, your
6 answer would be yes, right?

7 A Yes.

8 THE COURT: You already asked that.

9 Q And ultimately, sometime in February, I think
10 it was second or third, you arrested Mr. Provitero,
11 right?

12 THE COURT: Make it you or your brother
13 officers.

14 Q You or your brother officers?

15 A Yes, it was.

16 Q And that was at the Landmark Motel in Ridge-
17 field, New Jersey, right?

18 A No, it was not.

19 Q Where was it?

20 A At the Howard Johnson's Motel.

21 Q Thank you.

22 Q And you found in his possession how much in
23 amount of drugs?

24 A I don't know for sure.

25 Q If I said it was approximately half a kilogram,

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Logan-cross

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2 would that refresh your recollection?

3 A That is the amount we agreed upon. I don't
4 know whether he had it or not.

5 Q Did you hear wht he had on him when he was ar-
6 rested?

7 A Yes, I did.

8 Q Approximately half a kilogram?

9 A Yes.

10 Q You testified as to Government's Exhibits 63
11 and 64, which is in front of you, right?

12 A Yes, I did.

13 Q Now, you got those from Jimmy Provitero,
14 right?

15 A Yes, I did.

16 Q You did not get that from my client, did you?

17 MR. PANZER: Hattie Ware, stand up.

18 Q You didn't get it from her?

19 A No.

20 Q You got it from the cooperating witness
21 that is going to be a witness for the government, is that
22 correct?

23 MR. FORTUIN: There is no evidence that he
24 was a cooperating witness at that time.

25 Q He is going to be the cooperating individual.

1 gta Logan-cross 2083

2 You heard that, didn't you?

3 THE COURT: I assume you withdraw your
4 last question?

5 MR. PANZER: Yes.

6 THE COURT: I believe he also testified he
7 got them from Jimmy Provitero.

8 MR. PANZER: I have no further questions,
9 your Honor.

10 THE COURT: Mr. Leighton.

11 CROSS EXAMINATION

12 BY MR. LEIGHTON:

13 Q Agent Logan, Harry Pannirello and John Fanni-
14 rello, are they related? ... the relation, if any

15 A I heard they were, yes.

16 Q As a matter of fact, you heard that they were
17 brothers, is that right?

18 A Yes.

19 Q And Jimmy Provitero, this third person that
20 you said you met on January 8, 1973, isn't he also re-
21 lated to Harry and John Pannirello?

22 A I heard he was also, yes.

23 Q And how is he related?

24 A I heard he was a brother-in-law, I believe.

25 Q Of John Pannirello or Harry Pannirello.

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Logan-cross

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2 A Of John -- of Harry Pannirello.

3 Q Agent, these meetings that you had in New
4 Jersey, from January 8th to February 2nd, on either of these
5 meetings did you at any time wear any transmitter on your
6 person?

7 A No, I did not.

8 Q Do you know if Tennessee wore a transmitter on
9 his person the first time you met in New Jersey?

10 A No, he did not.

11 Q And your brother officers, are you aware if
12 any of your brother officers had a transmitter on their
13 person?

14 A No.

15 Q So at no time were any of the conversations
16 were you were face to face with either Jimmy Provitero or
17 John or Harry Pannirello, at no time were any of these con-
18 versations recorded, to your knowledge?

19 A Not to my knowledge.

20 Q Thank you.

21 When did you first meet Tennessee?

22 A It was in November of 1971.

23 Q And his real name is Henry Dawson, is that
24 right?

25 A No, it is not.

1 gta Logan-cross 2085

2 Q What is his real name?

3 A Thomas Dawson.

4 Q Thomas Dawson. Excuse me.

5 Prior to you meeting Thomas Dawson, you had information that he was dealing in narcotics?

6 A Yes, I heard he was dealing in narcotics.

7 Q And you also had information that he spent time in prison?

8 A No, I did not.

9 Q Well, after your conversations with Thomas Dawson, did you thereafter learn that he had spent time
10 in prison?

11 A Yes, I did.

12 Q And this is the same cooperating individual that you went to New Jersey on January 8, 1973 with?

13 A Yes.

14 Q At this meeting on January 8, 1973 you mentioned that Harry mentioned to Tennessee the name of Allen, is that correct?

15 A Yes, he did.

16 Q And you said that some time thereafter you found out that Allen was Warren Robinson, is that right?

17 A Some time before then, yes.

18 Q When did you find out?

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2 A I don't recall exactly, but it was some time
3 before January the 8th.

4 Q Was it Tennessee, Thomas Dawson, that told
5 you that this name Allen that Harry mentioned was
6 Warren Robinson?

7 A Yes, he did tell me that.

8 Q And did he tell you that -- can you approximate
9 when he told you that?

10 A No, I cannot.

11 Q You met Thomas Dawson in 1971. Could you
12 tell us approximately what month you met him?

13 A It was in November, 1971.

14 Q Was it closer to November of 1971, or closer to
15 January of 1973 that Tennessee told you that the Allen
16 that was mentioned in January of 1973 in that conversa-
17 tion was Warren Robinson?

18 A I believe it was closer to January of '73.

19 Q Agent Logan, when you went to see Thomas
20 Dawson you didn't go to see him for a social visit, did
21 you?

22 THE COURT: You mean when he first went?

23 MR. LEIGHTON: When he first sent to see him
24 in Maryland.

25 A No, I did not.

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Logan-cross

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2 Q You went to see him to turn him to make him the
3 stoolpigeon, right?

4 MR. FORTUIN: I object to the characterization
5 stoolpigeon.

6 THE COURT: All right. All right, let's
7 not have the laughter.

8 Let's reframe the question, Mr. Leighton.

9 MR. LEIGHTON: Your Honor, if I may, may
10 I ask the agent this question:

11 Q Do you know what a stoolpigeon is, Agent
12 Logan? Agent Logan?

13 THE COURT: Agent Logan, do you know what
14 a stoolpigeon is?

15 THE WITNESS: -- I have a general idea, yes.

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4B 2 Q Will you tell his Honor --

3 THE COURT: Do you use the slang expression
4 "stool pigeon," you personally?

5 THE WITNESS: No, I do not.

6 Q Have you heard it used in the vernacular in
7 the performance of your duties as a law-enforcement agent?

8 MR. FORTUIN: Objection.

9 THE COURT: I don't know where it is going, but
10 I will let it go.

11 Go ahead, answer the question.

12 A Yes, I have heard it.

13 Q And how is it used, what context? Would you
14 explain to his Honor and to this jury?

15 MR. FORTUIN: Objection.

16 THE COURT: No, I will permit it.

17 I don't know where it is going. I assume it
18 begins something.

19 How is it used, Agent?

20 THE WITNESS: They were referring to a cooperating
21 individual or someone assisting the government.22 THE COURT: Would you repeat the answer, please,
23 Mr. Reporter.

24 (Record read.)

25 Q So would you say that you went to see Thomas

1 tp2 Logan-cross

2 Dawson to make him a stool pigeon when you first went to see
3 him in Maryland?

4 THE COURT: Mr. Leighton, it is argumentative.

5 He already said he doesn't use the term. I don't know what
6 you mean by that.

7 MR. LEIGHTON: I will rephrase it, then, your
8 Honor.

9 Q Did you visit Thomas Dawson to make him a
10 cooperating individual when you first went to see him?

11 A Yes, I did.

12 Q Did you go alone or with other brother officers?

13 A I went with another officer.

14 Q And who was that?

15 A Agent John King.

16 Q Did you stay with Mr. Dawson at that time?

17 A Less than an hour.

18 Q And did he agree at that time to become a cooperat-
19 ing individual?

20 A No, he did not.

21 Q When did you see him again?

22 A I believe less than a week later.

23 Q And where was that, Agent Logan?

24 A I don't recall the exact location.

25 Q Was that at that time a BNDD office?

1 tp3

Logan-cross

2 A No, it was not.

3 Q Were you part of the Bureau of Narcotics and
4 Dangerous Drugs before it became the Drug Enforcement
5 Administration?

6 A Yes.

7 Q Where was this? Was this at his house again?

8 A I don't recall.

9 Q And did you visit him with other brother officers
10 at that time?

11 A Yes, I did.

12 Q And did Mr. Dawson become a cooperating individual
13 at that time?

14 A Yes, he did.

15 Q Did he make any notes as to these two meetings
16 with Mr. Dawson?

17 A Yes, I did.

18 Q Do you have those original notations that you
19 made?20 MR. FORTUIN: Objection, your Honor. If he
21 wants them, there is a procedure for obtaining them outside
22 the presence of the jury.

23 THE COURT: I will agree.

24 MR. LEIGHTON: Your Honor, may we approach the
25 side bar, then?

1 tp5 Logan-cross

2 the government if they would do it.

3 THE COURT: You do it yourself. I am not going
4 to get involved in this. Voluntary basis is voluntary
5 basis.

6 MR. LEIGHTON: They may have it in their posses-
7 sion. It would expedite matters. It would only cause
8 a preparation of a subpoena, it would only cause delay of
9 the trial, it would possibly cause recall of this witness.

10 I think if your Honor would ask the government,
11 they are standing right there, they might have it in their
12 files at the desk, they could have it in their offices and
13 it could save a lot of time.

14 MR. PHILLIPS: We object to that, your Honor.

15 THE COURT: All right. If they don't volunteer
16 it, they don't volunteer it.

17 MR. LEIGHTON: Thank you.

18 (In open court.)

19 BY MR. LEIGHTON:

20 Q Agent Logan, these notes that you made of these
21 two meetings, did you later transcribe these notes on
22 official Bureau of Narcotics and Dangerous Drugs forms?

23 MR. FORTUIN: Objection.

24 THE COURT: I will permit it.

25 A Yes, I did.

1 tp6

Logan-cross

2 Q Do you know what offices these forms are now
3 located in?4 A In the Washington district office in Washington,
5 D.C.

6 Q Thank you.

7 You don't by any chance have a copy on you, do
8 you?

9 A No, I do not.

10 Q You don't have a copy somewhere else in this
11 building or some place where you are staying in New York
12 City, do you?

13 MR. FORTUIN: Objection.

14 THE COURT: I don't know where we are going,
15 Mr. Leighton.16 MR. LEIGHTON: I know where I would like to go,
17 Judge.18 THE COURT: Yes, I know where you would like to
19 go, too.

20 MR. LEIGHTON: I will withdraw --

21 THE COURT: You withdraw it. Okay, fine.

22 Q Officer, when you prepared these forms, is it a
23 custom and practice for the agents to make a personal copy
24 for themselves to keep in their own files?

25 A I do not have a personal file myself, no.

1 tp7

Logan-cross

2 Q Did you make a copy of these reports that you
3 kept?

4 MR. FORTUIN: Objection.

5 THE COURT: He said he didn't have a personal
6 copy. I don't know where you are going.

7 I assume, knowing the government, the forms must
8 be at least in triplicate, so I assume he made copies,
9 but the copies have to go here, there and the other
10 place.

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5A 2 Q Agent, last question on this thing. You do not
3 have a copy yourself, do you?

4 A No, I do not.

5 Q This second meeting that took place with Mr.
6 Dawson, was that, do you say, still in the latter part of
7 November or early part of December of 1971?

8 A Yes, it was in November.

9 Q From November, 1971, till January, 1973, did
10 Mr. Dawson give you a lot of names, names of a lot of people?

11 A Yes, he did.

12 Q One of those names that he gave you was the name
13 of Warren Robinson, is that right?

14 A Yes, he did.

15 Q And you say that was some time in 1972 that he
16 gave you that name?

17 A No. It was in 1971.

18 Q He gave you the name in 1971. Didn't you just
19 testify that you received the name Warren Robinson closer
20 to January of 1973 than to November of 1971?

21 M. FORTUIN: Objection. That is not his
22 testimony.

23 Q If you remember.

24 THE COURT: I will permit it. Go ahead, answer
25 the question.

1 hp2

Logan-cross

2 A No, I did not testify to that.

3 Q It was your testimony that you found out that
4 the name Allen that Harry was talking about was Warren
5 Robinson at that time, is that your testimony?

6 A At what time?

7 Q Closer to January of 1973.

8 A Yes, I found out Allen was the name that Warren
9 Robinson used closer to January, 1973.10 Q And you found that out from Tennessee, is that
11 correct?

12 A Yes.

13 Q So when Tennessee gave you the name or Thomas
14 Dawson gave you the name of Warren Robinson in 1971 he
15 didn't at that time tell you that Warren calls himself Allen
16 it was almost a year later that he told you that?

17 A Yes, it was.

18 THE COURT: Mr. Leighton, hold on for a minute.

19 (Pause.)

20 MR. PHILLIPS: Your Honor, can I see you with
21 Mr. Sunden?22 THE COURT: Sure. Mr. Leighton, do you expect
23 to be much longer?24 MR. LEIGHTON: I think I will be more than 10
25 or 15 minutes.

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Logan-cross

2 THE COURT: All right, fine.

3 Mr. Marshal, would you be good enough to take
4 the jury out right now, please.

5 (Jury left the courtroom.)

6 THE COURT: As you gentlemen may remember, I
7 promised the Court of Appeals that Mr. Sunden would be up
8 there by a quarter to twelve. Mr. Sunden feels, however,
9 that the cross-examination of this witness is so vital to
10 the interests of his client, that he can't be in two places
11 at once, he wants to be here. So we will pick up again
12 at two o'clock.13 We may sit a little late this afternoon. I am
14 going to try to get this case moving as fast as possible.15 MR. WARNER: Your Honor, it may be necessary
16 for me to be absent in the afternoon. If so, I will have
17 someone cover.

18 THE COURT: All right, fine.

19 Mrs. Posner, you have an application also?

20 MRS. ROSNER: Yes.

21 THE COURT: Mr. Ellis has two, Mr. Panzer has
22 one.23 MR. PANZER: I just want to say briefly that
24 I will have to leave at about 4.30 this afternoon. I
25 have to be before Judge Weinstein at 5 o'clock.

1 hp4

2 THE COURT: All right.

3 (In the robing room.)

4 THE COURT: Mr. Ellis made two applications
5 yesterday. One of them pertained to the possibility of
6 his client departing for the purposes of selling his house
7 on this coming Friday afternoon, Saturday and Sunday.

8 MR. ELLIS: Your Honor, actually I asked that
9 he be permitted to absent himself from court all day
10 Friday, Saturday, Sunday and Monday.

11 MR. PHILLIPS: Your Honor, in light of what has
12 happened with Al Greene, we more strenuously object at
13 this point to any absence by any defendant during the
14 course of the trial. It just increases the danger of
15 falling downstairs or any other thing. If they are sitting
16 in the courtroom chances are they are not going to get hurt,
17 they are not going to go anywhere, and we won't have any
18 further delays in the case, hopefully.

19 MR. ELLIS: Judge, he is not --

20 THE COURT: All right.

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2 MR. PHILLIPS: I am not saying he is going
3 to take off. There are any number of things that
4 can happen.

5 THE COURT: I can understand if someone is
6 selling his house that there is a necessity for him to
7 appear in the jurisdiction to sign whatever papers are
8 necessary.

9 MR. ELLIS: Judge, I don't want to mis-
10 lead the court. He is not selling his house. He is
11 going down there to arrange for a sale.

12 THE COURT: I understand that. To sign
13 up with a broker, who will do it for him.

14 MR. ELLIS: Yes, sir.

15 THE COURT: I am willing to let him go
16 Friday afternoon and Saturday.

17 MR. ELLIS: You mean he will have to be
18 here tomorrow morning, he couldn't fly out tonight?

19 THE COURT: No. I want him to be
20 here as much as possible, Mr. Ellis.

21 MR. ELLIS: What difference does two hours
22 make?

23 THE COURT: It makes a difference.

24 The second one was as to whether the govern-
25 ment could ask on cross examination concerning a 1959

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2 conviction in the state system for narcotics.

3 I assume that that application is made with
4 an expectation on your part that you are not going to
5 stand up and make statements like, "Isn't it true, Mr.
6 Mamone, that you have never been convicted of a crime?"
7 etc., etc.

8 MR. ELLIS: I don't intend to do that,
9 Judge.

10 THE COURT: "You have no criminal record,"
11 and so on.

12 MR. ELLIS: I won't make any reference to
13 either the absence or the presence of a criminal record.

14 THE COURT: All right. I am not sure
15 that a 1959 conviction actually would fall within the
16 confines of the Puco case. However, the conviction
17 did apparently occur when the defendant was 17 years old.

18 Under the circumstances, as a matter of dis-
19 cretion, I am not going to permit it to be used on cross
20 examination.

21 MR. ELLIS: Again, your Honor, just so
22 that the record is clear, I have not made a decision yet
23 whether to put him on the stand.

24 THE COURT: You wanted a ruling so you
25 could make an intelligent decision. You got your

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2 ruling.

3 MR. ELLIS: Thank you, your Honor.

4 MRS. ROSNER: Your Honor, this morning I asked
5 Mr. Phillips whether he intended to produce a hand-
6 writing expert. It was with the broadest of grins on
7 his face that he declined to answer.

8 With that in mind, your Honor, I renew the
9 application to be permitted have the conclusion rendered
10 by the government's expert under Rule 16(b). If the
11 government does intend to call a handwriting expert
12 I want to be prepared to cross examine him and I can
13 only do that by taking the exemplars, examining them
14 myself with whatever background I have, submitting them
15 to my own expert, to understand what the thrust of my
16 cross examination should be. Of course, we are
17 entitled to our own examination.

18 Now, all that is going to happen is --

19 THE COURT: I still think it is premature,
20 for the very simple reason that though the expert might
21 give an off-the-cuff reaction, he is not going to
22 come out with a firm conclusion between whatever time
23 it was, 12:15 yesterday, and this morning.

24 MRS. ROSNER: Why don't we ask the govern-
25 ment. I just don't want to be in a position of having

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2 to ask for an adjournment to get my own expert to look at
3 the stuff if I can avoid it by doing it now.

4 THE COURT: At such time that you have an
5 expert render an opinion with respect to this will you
6 advise us that he has rendered it?

7 MR. PHILLIPS: Yes. I am advised by
8 Mr. Engel, who has been in direct communication with Mr.
9 Caputo, that he has arrived at a final conclusion, and that
10 conclusion is that in his opinion the handprinting is not
11 Mr. Inglese's.

12 THE COURT: Do you withdraw your application
13 now?

14 MRS. ROSNER: I withdraw the application.

15 THE COURT: Fine.

16 (Luncheon recess.)

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2 AFTERNOON SESSION3 (2:00 p.m.)

4 A L B E R T L O G A N resumed.

5 THE COURT: Ladies and gentlemen, please
6 accept my apologies for the paucity of the testimony
7 today. Believe it or not, we were working, however.
8 When the time comes I will explain it all to you. The
9 time is not right now.

10 All right, Mr. Leighton.

11 MR. LEIGHTON: Thank you, Judge.

12 CROSS EXAMINATION CONTINUED

13 BY MR. LEIGHTON:

14 Q Agent Logan, the first time that you went
15 to see Thomas Dawson in November of 1971 did you tell him
16 that you knew he was dealing in narcotics?

17 A No, I did not.

18 Q Did you ask him to become a cooperating in-
19 dividual?

20 A Yes, I did.

21 Q Did he say to you, "Why should I"?

22 A No.

23 Q Did you say to him or any of your brother
24 officers say to him, "Well, if you help us, we'll help
25 you"?

2 MR. FORTUIN: At this time I am going to
3 object on the grounds it is outside the scope of the
4 direct and completely irrelevant.

5 THE COURT: It is pretty far out, yes.
6 I will sustain the objection.

7 Q Well, the second time you went to visit Mr. Dawson
8 did you say to him, "If you help us, we'll help
9 you"?

10 MR. FORTUIN: Same objection.

11 THE COURT: Answer it.

12 A No, I did not.

13 Q At any time thereafter in your conversations
14 with Mr. Dawson did you ever say to him, "If you help
15 us, we'll help you"?

16 A No, I did not.

17 Q Could you give us an estimation about how many
18 times you were in communication with Mr. Dawson from the
19 first time you conversed with him in November of 1971
20 up until the meeting at the Landmark Motel in January of
21 1973?

22 A It was many times, many, many times.

23 Q Could you give us an approximation, Agent Logan?
24 Was "many" 100, 50?

25 A I would say from more than 50 times; 50 to

1 gta Logan-cross 2105

2 100 times, something like that.

3 Q And during any of these conversations did
4 you ever tape record any of these conversations with
5 Mr. Dawson?

6 A Did I record any of the conversations?

7 Q Yes, sir.

8 A No, sir, I did not.

9 Q Did any of your brother officers ever record
10 any conversations between you and Mr. Dawson?

11 A No.

12 Q After the meeting on January 8, 1973 in New Jer-
13 sey, were you still in contact with Mr. Dawson?

14 A Yes.

15 Q And when was the last time you spoke with Mr.
16 Dawson from today back?

17 A Yesterday.

18 Q Agent Logan, you have seen Mr. Robinson
19 before today, have you not?

20 A Yes.

21 Q And before yesterday?

22 A Yes.

23 Q As a matter of fact, you saw him one time in
24 his clothing store in Washington, D.C., is that right?

25 A Yes, that's right.

1 gta

Logan-cross

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2 Q And do you know how long ago that was?

3 A About a year and a half; even longer.

4 Q Could you narrow it down the best you can to
5 year and month?

6 A It was in 1972. I'm not sure of the month.

7 Q Was that the only time you ever saw Mr. Robinson
8 in his clothing store?

9 A No, it is not.

10 Q Have you read the indictment in this case?

11 A Some of it, yes.

12 Q Agent Logan, you never saw Mr. Robinson in New
13 Jersey or in New York during the year of 1962, did you?

14 THE COURT: Hold on, counsel. You don't
15 really mean 1962, do you?

16 MR. LEIGHTON: Did I say that? I'm sorry,
17 your Honor.

18 Q 1972.

19 A No, I did not.

20 Q You did not see him in New York or New Jersey
21 in 1973, either, did you?

22 A No, I did not.

23 MR. LEIGHTON: I have no further questions,
24 your Honor.

25 Thank you.

1 gta

Logan-cross

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2 THE COURT: All right, Mr. Leighton.

3 Mr. Pollack.

4 CROSS EXAMINATION

5 BY MR. POLLACK:

6 Q Good afternoon, Mr. Logan.

7 Mr. Logan, I represent the defendant Henry
8 Salley. Now, would you tell us whether you ever saw
9 the defendant Henry Salley in New Jersey or New York
10 in 1972 or in 1973?

11 A No, I did not.

12 Q I draw your attention to the date of January
13 8, 1973. At that time you had a conversation with Harry
14 Pannirello, right?

15 A Yes, I did.

16 Q And in that conversation he mentioned something
17 about that Allen and Salley had been up to New Jersey.
18 Was that your testimony on direct?

19 A Yes.

20 Q You have no personal knowledge that Allen or
21 Salley were ever in New Jersey the way he said, do you?

22 A I do not.

23 Q So you don't know whether that statement
24 that Harry Pannirello made was true or not?

25 A No.

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2 Q In answer to a question from Mr. Leighton,
3 you indicated that you had been in the clothing store
4 owned by Mr. Warren Robinson, is that correct?

5 A Yes.

6 Q Do you know the name of that clothing store,
7 by the way?

8 A To my knowledge, that clothing store is no
9 longer in existence.

10 THE COURT: What was the name before it
11 went out of existence?

12 THE WITNESS: Warren's Men's Shop,
13 I believe. I believe.

14 Q Would it refresh your recollection if I were
15 to ask you was the name Allen's?

16 A No, it was not.

17 Q About how often were you in that store?

18 A I believe I went into that store on two
19 different occasions.

20 Q On any of those occasions was Mr. Tennessee
21 Dawson in that store?

22 A On one, yes.

23 Q And when was that?

24 A The month I'm not sure, but the year was 1972.

25 Q Would you say it was early '72, late '72?

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Logan-cross

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2 Could you pinpoint it at least as to the season?

3 A It was either spring or fall. I'm not
4 sure. I had on a light jacket.

5 Q So it could have been, say, around September
6 or October of '72, right? That would be the fall, wouldn't
7 it?

8 A Yes, it would have been.

9 Q Was there any discussion that you overheard in
10 the store about trips to New York to my clothes?

11 A No.

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2 Q As of the date of this conversation you had with
3 Harry Pannirello on January 8, 1973, prior to that date had
4 you ever met Mr. Salley before?

5 A No.

6 Q Thank you, sir.

7 THE COURT: Mr. Fortuin, do you have any
8 redirect?

9 MR. FORTUIN: Briefly, your Honor.

10 REDIRECT EXAMINATION

11 BY MR. FORTUIN:

12 Q Agent, I believe yesterday you testified that
13 you had a conversation with Harry Pannirello in which he
14 stated that he had made over \$500,000 from the narcotics
15 business, is that correct?

16 A Yes, that is correct.

17 Q And he also stated that he put aside \$300,000?

18 A Yes.

19 Q Agent, have you conducted undercover work prior
20 to the occasion you described in your testimony?

21 A Yes.

22 Q And in your experience, do people who deal in
23 narcotics tend to overstate or understate their involvement
24 in narcotics?

25 MR. ELLIS: Objection, your Honor.

1 tp2

Logan-redirect

2 MR. LEIGHTON: Objection.

3 Q Did you ever make any attempt to determine whether
4 the statements Harry Pannirello made to you were true?

5 MR. ELLIS: Objection.

6 MR. LOPEZ: I want to hear it, your Honor.

7 I want to hear --

8 THE COURT: You don't object, Mr. Lopez?

9 You object to the objection?

10 MR. LOPEZ: Yes, your Honor.

11 THE COURT: I will sustain the objection.

12 Your objection to the objection is overruled.

13 Q Agent, on cross-examination you said that you
14 had information that Tennessee was a dealer in narcotics,
15 is that correct?

16 A Yes.

17 Q As of January 8, 1973, was he in the narcotics
18 business or had he reformed?

19 MR. POLLACK: I will object.

20 MR. PANZER: I will object to the form of that.

21 THE COURT: Yes, I will sustain that.

22 Q Agent, at any of the times that you testified
23 before in January or February of 1973, was Harry Pannirello
24 a cooperating individual?

25 A No, he was not.

1 tp3

Logan-redirect

2 Q Was John Pannirello a cooperating individual
3 during that period of time?

4 A No.

5 Q Was James Provitero a cooperating individual at
6 that time?

7 A No.

8 Q Agent, you also testified that you saw Tennessee
9 Dawson as recently as yesterday?

10 A Yes.

11 Q And where did that meeting take place or where
12 did you see him?

13 A In the U.S. Attorney's Office, the Assistant
14 U.S. Attorney's Office.

15 Q That would be my office?

16 A Yes.

17 Q Agent, you were asked some questions about the
18 word "stool pigeon."

19 In your experience is the term "stool pigeon"
20 used by narcotics peddlers to describe cooperating individual

21 MR. ELLIS: Objection.

22 MR. ROSENBERG: Objection.

23 THE COURT: Yes, I will sustain it.

24 Q Well, in your experience, who does use the word
25 "stool pigeon"?

1 tp4

2 Logan-redirect

3 MR. ELLIS: Objection.

4 MR. ROSENBLG: Objection, your Honor.

5 THE COURT: Sustained.

6 MR. FORTUIN: I have no further questions.

7 THE COURT: Does anyone else wish to inquire?

8 All right, Agent, step down.

9 (Witness excused.)

10 THE COURT: Call your next witness.

11 MR. PHILLIPS: The government calls Harry
12 Pannirello.13 H A R O L D P A N N I R E L L O, called as a witness
14 on behalf of the government, being first duly
15 sworn, testified as follows:

16 MR. PHILLIPS: May I proceed, your Honor?

17 THE COURT: Yes.

18 DIRECT EXAMINATION

19 BY MR. PHILLIPS:

20 Q Mr. Pannirello, how old are you?

21 A 31.

22 Q Were you born in New York City?

23 A Yes.

24 Q Where did you live while you were growing up?

25 A In East Harlem.

Q Could you tell us where in East Harlem?

2 A 115th Street, First and Second Avenue.

3 Q Where is that in relation to Pleasant Avenue?

4 A Two blocks.

5 Q Where did you go to school?

6 A I went to P.S. 102 Grammar School, James Otis

7 Junior High School and Machine of Metal Trades High School.

8 Q Did you graduate from high school?

9 A No.

10 Q Where did you first go to work?

11 A Newsweek Magazine, New York City.

12 Q Would you keep your voice up by speaking into
13 the microphone that is directly in front of you.

14 A Do you see it there?

15 A Yes.

16 Q And in what capacity did you work for Newsweek
17 Magazine?

18 A I started off as stock clerk.

19 Q And where did you work after that?

20 A MR. SUNDEN: Objection, Judge.

21 A THE COURT: No, I will permit it.

22 A I worked in New Jersey for a contractor.

23 Q And after that where did you work?

24 A I worked in Florida.

25 Q And when did you go to Florida?

2 A 1962.

3 Q And how long did you remain in Florida?

4 A Two years.

5 Q What type of work did you do there?

6 MR. SUNDEN: Objection.

7 THE COURT: No, I will permit it.

8 Q What type of work did you do there?

9 A I worked as a waiter, as a cocktail waiter,
10 a bartender.

11 Q Where in Florida were you working?

12 A Miami Beach.

13 Q Did there come a time when you went into the
14 Service?

15 A Yes.

16 MR. SUNDEN: Objection.

17 Q When was that?

18 THE COURT: I will permit it.

19 MR. SUNDEN: May I have an on-going objection to
20 all of this?

21 THE COURT: Yes.

22 Q When was that, Mr. Pannirello?

23 A In 1967.

24 Q How long were you in the Service?

25 A Two years.

1 tp7

H.Pannirello-direct

2 Q Did you receive an honorable discharge?

3 MR. ELLIS: I will object to that, your Honor.

4 MR. SUNDEN: Objection.

5 THE COURT: No, I will permit it.

6 Q Will you answer the question?

7 A Yes, I did.

8 Q And you got out of the Service in 1969?

9 A Yes.

10 Q Where were you living at that time?

11 A I was living in New Jersey.

12 Q What part of New Jersey?

13 A Closter.

14 Q Were you married then?

15 A Yes.

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2 Q Did you go to work when you got out of the Service?

3 A Yes, I did.

4 Q Where did you go to work?

5 A Went to work for a contractor in New Jersey.

6 Q Do you recall the name of the contractor?

7 A Press Concrete.

8 Q Was that the construction business?

9 A Yes.

10 Q Do you recall when you worked there?

11 A From September of 1969 to February of 1970.

12 Q And then did you go to work somewhere else?

13 A Yes.

14 Q Where was that?

15 A For C. Salvatore & Son, a construction company.

16 Q Where are they located?

17 A In Montclair, New Jersey.

18 Q For what period of time did you work for them?

19 A One year.

20 Q Directing your attention to the early part of
21 1970, around February, March of 1970, did you at that time
22 know a person by the name of Frank Pugliese?

23 A Yes.

24 Q By what name did you know him?

25 A Butch.

1 hp2

H.Pannirello-direct

2 Q Do you see him in the courtroom today?

3 A Yes.

4 Q Would you point out what he is wearing and where
5 he is sitting or standing?

6 A He is sitting -- he is standing to my right.

7 He has a blue jacket on, a blue shirt and tie.

8 MR. PHILLIPS: May the record reflect that the
9 witness has identified the defendant Pugliese.10 Q At that time -- I am talking about the early part
11 of 1970 -- did he have a beard?

12 A No.

13 Q In March of 1970 did you have occasion to see
14 Mr. Pugliese?

15 A Yes.

16 Q Where was that?

17 A In the Bronx.

18 Q Where in the Bronx, if you recall?

19 A By my brother's house.

20 Q What is your brother's name?

21 A John.

22 Q Did you see him in the house or outside the house

23 A Outside.

24 Q Did you have a conversation with him?

25 A Yes.

1 hp3

H.Pannirello-direct

2 Q Was anybody else present?

3 A No.

4 Q Could you tell us what the conversation was
5 between you and Mr. Pugliese?6 A I told Butch that I was in need of money, I wanted
7 to earn some money, and I didn't care how I earned it, just
8 so that I could earn some money, and he says, "Okay, I'll
9 be in touch with you and we'll talk about it some more."10 Q Was there any discussion as to how you were going
11 to earn the money or what you were going to do for him?

12 A Not at that time, no.

13 Q Mr. Pannirello, did you have occasion to see him
14 again in March of 1970?

15 A Yes.

16 Q Where was that?

17 A At a restaurant in the Bronx.

18 Q Do you recall which restaurant?

19 A Hager's, I believe.

20 Q Did you have a conversation with him at that time?

21 A Yes.

22 Q Was anybody else present?

23 A No.

24 Q Could you tell us what that conversation was?

25 A Yes. I met Butch at the restaurant and we

1 hp4 H.Pannirello-direct

2 were sitting inside and he told me that he wanted me to
3 stash for him, and what he meant by that was that he wanted
4 me to stash some narcotics for him, and I agreed to it.
5 He also told me the amount that he wanted me to stash for
6 him.

7 Q What did he say with respect to that?

8 A It was seven eighths.

9 Q Seven eighths of what?

10 A Heroin.

11 Q Had you prior to that time had anything to do
12 with narcotics?

13 A No.

14 Q What did you say to him?

15 A I said okay.

16 Q Did he give you any narcotics at that time to
17 stash?

18 A To the best of my recollection, yes.

19 Q And what did he give you?

20 A Seven eighths.

21 Q What did you do with the seven eighths?

22 A I took them home and I stashed them up in the
23 attic of the house.

24 Q Were these seven separate packages?

25 A Yes.

2 Q How were they wrapped?

3 A Individually in small clear plastic containers.

4 Q What was inside?

5 A Heroin.

6 Q What did it look like?

7 A It was white.

8 Q What type of substance?

9 A The substance was white.

10 Q I am not asking the color. Was it a powder or --

11 A Powder, yes.

12 Q Did you have occasion to hear from Butch after
13 that?

14 A Yes, I did.

15 Q Did he call you or did you call him?

16 A I don't recall if I called him or if he called
17 me at that time.

18 MR. ELLIS: Your Honor, could the witness be
19 directed to use the last name of the person to whom he is
20 referring.

21 THE COURT: Yes, sure. Mr. Pannirello, instead
22 of using just the nickname Butch would you please go on to
23 identify Butch whoever it might be with the last name.
24 All right?

25 THE WITNESS: Yes, your Honor.

1 hp6

H.Pannirello-direct

2 THE COURT: All right.

3 Q What was the conversation that you had with him?

4 MR. LOPEZ: I object, your Honor. May we have
5 a time when this conversation took place, if the witness
6 knows.

7 THE COURT: Let's find out.

8 Q Mr. Pannirello, how soon after you took the seven
9 eighths back to your place in New Jersey did you hear from
10 him again?

11 A Two to three weeks later.

12 Q Do you know what month this would have been in?

13 A The end of March, beginning of April.

14 Q 1970?

15 A Yes.

16 Q What was the conversation that you had with him
17 on the phone?18 A When Mr. Pugliese called me he told me to come
19 down to the Bronx to see him and bring one shirt with me.

20 Q What did you understand that to mean?

21 A I understood that to mean that he was talking
22 about the heroin that I had.23 Q And what did you do as a result of that telephone
24 conversation?

25 A I took the heroin to him.

1 hp7

H.Pannirello-direct

2 Q How much did you take?

3 A One eighth.

4 Q Where did you meet him?

5 A On 170th Street and University Avenue.

6 Q What occurred after you met him?

7 A When I got there Mr. Pugliese was already there and
8 I don't recall if I got into his automobile or if he got
9 into my automobile. I gave him the package and Mr.
10 Pugliese went into the building and went into an elevator.

11 Q Did you go in with him?

12 A No.

13 Q Did he come out after some period of time?

14 A Yes, he did.

15 Q How long was he in there, do you know?

16 A 20 minutes.

17 Q What happened after he came out?

18 A I don't recall if I was sitting in my automobile,
19 if I was sitting in his automobile, but he got into the
20 automobile and he handed me some money.

21 Q How much did he hand you?

22 A Approximately \$200.

23 Q Did you then go back to New Jersey?

24 A Yes.

25 Q Do you recall how soon after that you heard from

1 hp3 H.Pannirello-direct

2 him again, if ever?

3 A Yes. I would say again two to three weeks later.

4 Q Was this in April of 1970?

5 A Yes,

6 Q Did you hear from him by telephone or in person?

7 A By telephone.

8 Q What was the conversation you had with him?

9 A When Mr. Pugliese called me again he told me to
10 come down to see him and bring two shirts with me when I
11 come down.

12 Q Did he tell you where to meet him?

13 A Yes.

14 Q Where?

15 A On 170th Street and University Avenue.

16 Q Did you go down and meet him?

17 A Yes.

18 Q What did you take with you?

19 A Two eighths.

20 Q And what happened after you met him?

21 A When I got there he was already there and we
22 both went into the building.

23 Q Which building was this?

24 A 1380 University Avenue.

25

2 Q What happened after you went into the build-
3 ing?

4 A We went up to the 11th floor.

5 Q Where on the 11th floor did you go?

6 A To an apartment on the 11th floor, Hattie Ware's
7 apartment.

8 Q Had you ever met Hattie Ware before?

9 A I don't recall right now if I did or if I
10 didn't.

11 Q Did you go in the apartment?

12 A Yes.

13 Q Did you go in with Mr. Pugliese?

14 A Yes.

15 Q Who was present when you went inside?

16 A Hattie Ware, Basil, his girlfriend Bunny, myself
17 and Mr. Pugliese.

18 Q Do you see Hattie Ware in the courtroom?

19 A Yes.

20 Q Would you point her out, please?

21 A She is a little bit to my right with a white
22 blouse on or white coat, red hair.

23 MR. PHILLIPS: May the record reflect
24 that the witness has identified the defendant Hattie
25 Ware.

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H. Pannirello-direct

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2 MR. SUNDEN: Your Honor, I wonder if we
3 could fix a time for this incident we are talking about.

4 THE COURT: I thought we had. But go
5 ahead, let's redo it.

6 Q Which month was this, Mr. Pannirello?

7 A To the best of my recollection, April.

8 Q Do you recall the exact date?

9 A No.

10 Q You mentioned a person named Basil was in
11 Hattie Ware's apartment. Had you ever met him before?

12 A To the best of my recollection now, no.

13 Q You mentioned his girlfriend Bunny. Had you
14 met her before? *Are you allowed to do this?*

15 A No.

16 Q What occurred after you went inside?

17 A The four of us were standing in the living
18 room.

19 Q There were five of you, weren't there?

20 A Five of us, yes.

21 MR. LOPEZ: Objection.

22 A I'm sorry. Five of us.

23 THE COURT: All right. I will permit it.

24 Go ahead.

25 Q What happened?

1 jha

H. Pannirello-direct

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2 A I had the package in my jacket. I took the
3 package out and I laid it on the coffee table in the
4 living room.

5 Mr. Pugliese and Basil went into the bedroom,
6 I believe, and a few moments later they come out, and
7 five or ten minutes after that me and Mr. Pugliese left.

8 Q Where was the package when they went into the
9 bedroom?

10 A On the coffee table.

11 Q Did Mr. Pugliese pay you anything on that
12 occasion?

13 A Yes.

14 Q What did he pay you?

15 A \$200 I think.

16 Q At about this period of time did you have occa-
17 sion to meet a person by the name of Al Greene?

18 A Yes.

19 Q Where did you meet him?

20 A In the same building. He had an apartment on
21 the seventh floor.

22 Q Who introduced you to him?

23 A Mr. Pugliese.

24 Q Do you recall what the conversation was when
25 you were introduced to Al Greene?

2 A Yes.

3 MR. LOPEZ: May we have a time? Are we still
4 in April?

5 THE COURT: Yes, that is my understanding.

6 MR. LOPEZ: All right, fine.

7 MR. PHILLIPS: I will ask the witness.

8 Q Mr. Pannirello, is this still in April of 1970?

9 A I believe it was. Maybe a short time --
10 maybe the first week of May.

11 Q Do you recall the conversation that occurred
12 when you were introduced to Al Greene by Mr. Pugliese?

13 A Yes, I do.

14 Q What was it?

15 A When we went into the apartment Al Greene was
16 there, his wife, myself and Mr. Pugliese, and Mr.
17 Pugliese told Al Greene that I would be making the deliveries
18 to him and Al Greene agreed to it.

19 Q How many packages, after you had delivered the
20 two packages to Butch Pugliese on the second occasion,
21 how many packages were left in your apartment or your house
22 in New Jersey?

23 A Four eighths.

24 Q What did you do with those?

25 A I gave them to Butch, to Mr. Pugliese.

2 Q Where did you take them to and when?

3 A Approximately three weeks later, after I had
4 seen him the second time, I took them to where he lived
5 in the Bronx.

6 Q Did you give them to him?

7 A Yes.

8 Q Did he pay you any money at that time?

9 A No.

10 Q Did he ever pay you any more money for stash-
11 ing the narcotics that you just described?

12 A Yes.

13 Q When was that?

14 A In June.

15 Q How did that come about?

16 A I hadn't heard from him for a while and he
17 called me one afternoon at home and he asked me to come
18 down to see him in the Bronx at his office -- he had a
19 construction office in the Bronx -- and I did. When I
20 got there there was other people there, but I don't recall
21 who they were right now.

22 Anyway, he told me, he says, "I have some
23 fireworks here. Take these fireworks," he says, "about
24 a thousand dollars's worth, the \$400 that I owe you, plus
25 there is another 600 for you to earn."

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2 Q So did you take the fireworks?

3 A Yes.

4 Q During the summer of 1970 did you have any
5 narcotics transactions?

6 A No.

7 Q Did you see Butch Pugliese that summer?

8 A No.

9 Q Directing your attention to June of 1971, did
10 you have occasion to meet an individual by the name of
11 Joseph DiNapoli?

12 A Yes.

13 MR. LOPEZ: Objection as to leading, your
14 Honor.

15 THE COURT: No, I will permit it.

16 Q Who introduced you to Mr. DiNapoli?

17 A Mr. Pugliese.

18 Q Prior to meeting Mr. DiNapoli had Mr. Pugliese
19 ever mentioned him to you?

20 A I believe so, yes.

21 Q Do you recall when he ever mentioned him?

22 MR. LOPEZ: Objection, your Honor. The
23 witness hasn't affirmatively indicated if he actually
24 knows. He says he believes.

25 THE COURT: No, I will permit it.

2 Q Can you answer that question?

3 A To the best of my recollection, yes.

4 Q Do you recall what Mr. Pugliese had told you
5 or said to you about Mr. DiNapoli prior to you meeting
6 him?

7 A To the best of my recollection, what Mr.
8 Pugliese told me about him was that partners with him.

9 Q Partners in what?

10 A In drugs.

11 Q Would you tell us the circumstances of your
12 meeting Joseph DiNapoli?

13 A Yes. I was with Mr. Pugliese one afternoon
14 and he asked me to take a ride with him over to -- he
15 referred to him as Joey DiNap -- over to Joey DiNap's,
16 over by Bronxdale Avenue, he wanted to bring him some
17 money, and I said okay.

18 Q Was it DiNapoli's home that he said you were
19 going to?

20 A No.

21 Q Where did he say you were going?

22 A His girlfriend's home.

23 Q Do you see Mr. DiNapoli in the courtroom today?

24 A Not right now, no, I don't see him.

25 Q Would you look all around the courtroom and see

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H. Pannirello-direct

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2 if you see anybody that resembles Mr. DiNapoli.

3 A No, I don't.

4 Q Did you go up to Bronxdale Avenue with Mr.
5 Pugliese?

6 A Yes.

7 Q And what occurred when you arrived there?

8 A When we went into the house there was myself,
9 Mr. Pugliese, DiNapoli and his girlfriend and Mr.
10 Pugliese introduced me to them and then Mr. Pugliese laid
11 some money on a coffee table.

12 Q Do you recall how much money he laid on the cof
13 table?

14 A No, I don't.

15 Q Do you know approximately how much it was?

16 A In the thousands, eight, ten thousand maybe.

17 Q What happened after he did that?

18 A Mr. DiNapoli started to count the money.

19 Then a few seconds later he pushed it over on the side
20 and he didn't count any more.

21

22

23

24

25

2 Q Going back a minute; before you entered the
3 house, what, if anything, occurred?

4 A We were sitting in the car, me and Mr. Pugliese,
5 and he took some money from this amount of money that he
6 had and he put it in a sock and he said, "I'm not going
7 to give him all the money."

8 Q How much money did he put in his sock, do you
9 know?

10 A No, I don't.

11 Q Do you know approximately how much?

12 A No.

13 Q In the same month, that is, June of 1971,
14 did you have occasion to meet an individual by the name
15 of Hank?

16 A Yes.

17 Q Who introduced you to Hank?

18 A Mr. Pugliese.

19 Q Where did you meet him?

20 A At his home.

21 Q Can you tell us where his home was located,
22 to the best of your recollection?

23 A It was located in the Bronx and, to the best
24 of my recollection, there was a main artery directly
25 across from his house. I don't know if it was the

1 gta H. Pannirello-direct 2134

2 Hutchinson River Parkway or the New England Thruway.

3 Q Who did you go there with?

4 A Mr. Pugliese.

5 Q Did Mr. Pugliese say why he was going there?

6 A Yes, he did.

7 Q What did he say?

8 A I said he was going there to see a fellow
9 by the name of Paulie and Paulie owed him some money and
10 he wanted to collect some money from him.

11 Q Was Paulie known by any other name, to
12 your knowledge?

13 A Yes.

14 Q What was that?

15 A Arrow.

16 Q Did Mr. Pugliese say anything about the rela-
17 tionship between Paulie and Hank?

18 MR. SIEGEL: Objection, your Honor.

19 THE COURT: No, I will permit it.

20 Q Did you understand the question?

21 A Yes.

22 Q What did he say?

23 A He says that Paulie and Hank were partners.

24 Q Partners in what?

25 A Narcotics.

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H. Pannirello-direct

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2 MR. SIEGEL: Objection, your Honor.

3 THE COURT: I will permit it.

4 Q Who was present when you arrived at Hank's
5 house?

6 A There was Hank and Paulie, myself and Mr.
7 Pugliese.

8 MR. PHILLIPS: I am sorry, I missed that.
9 May the reporter read that answer back?

10 THE COURT: Surely.

11 Go ahead, Mr. Reporter.

12 (Record read.)

13 Q What occurred after you and Mr. Pugliese
14 arrived?

15 A Mr. Pugliese asked Paulie if he had the money
16 that he owed him and Paulie said no, he says, "I don't,
17 but as soon as I get it, "I'll give it to you."

18 Q What did Mr. Pugliese say?

19 A He said okay.

20 Q Do you see Hank in the courtroom?

21 A Yes.

22 Q Would you point him out, please, where he is
23 sitting and what he is wearing.

24 A He is sitting to my right. I can't see
25 what he is wearing.

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2 Q Would you come down here and go over and
3 point to him, please?

4 A Oh, I see him now. He is wearing a blue
5 jacket and he is sitting over there in the corner (in-
6 dicating). He also has a moustache.

7 MR. PHILLIPS: May the record reflect --

8 MR. SIEGEL: Your Honor, can we have a more
9 definite --

10 Q All right. Mr. Pannirello, will you please
11 come down here and come right over and point right at
12 him. Just go over there.

13 THE COURT: Walk inside the tables.

14 A Sitting right here with the blue topcoat.

15 THE COURT: All right. The record will re-
16 flect that the witness has identified the defendant
17 John Springer as Hank.

18 MR. SUNDEN: Your Honor, might I have a
19 limiting instruction to the jury that pertains to my
20 client Willie Alonzo as to all of the evidence by Mr.
21 Pannirello as to the hearsay statements?

22 THE COURT: Yes.

23 Ladies and gentlemen, you recall my talking
24 about taking evidence subject to connection. This
25 is all being offered right now not in connection with any-

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2 body else except those people who are being named.

3 When we get around to it we will discuss at some great
4 extent what this all means and it is taken subject to
5 connection.

6 Go ahead, Mr. Phillips, please.

7 Q At the time that you met Hank in June of 1971
8 was he wearing a moustache or a beard?

9 A I don't recall.

10 Q Do you recall where you were during July of
11 1971?

12 A Yes, I do.

13 Q Where was that?

14 A I was down the Jersey shore.

15 Q Did you have occasion to see Mr. Pugliese during
16 that month?

17 A Yes.

18 Q Do you recall where he was or where you saw
19 him?

20 A I saw him also down the Jersey shore in Seaside
21 Heights.

22 Q How many times did you see him during the month
23 of July, 1971?

24 A Twice.

25 Q Tell us about the first time, if you would.

1 gta H. Pannirello-direct 2139
2 he introduced me to them.
3 Q Who did he introduce you to, if you can re-
4 call?
5 A Yes. His brother-in-law Chico and his
6 wife, his cousin and his wife, Pat Dilacio and his wife.
7 Q Had you ever met Pat Dilacio before?
8 A No.
9 Q Did you have a conversation with Mr. Pugliese
10 on that date that in any way related to narcotics?
11 A Yes.
12 Q Will you tell us what was said?
13 A We all went back to the house and a short
14 time later myself, Mr. Pugliese and Mr. Dilacio left the
15 house and Mr. Pugliese turned to me and says, "Get to
16 know Patty real well."
17 I said okay.
18 Q Directing your attention now to the following
19 month, August of 1971, did you meet an individual by the
20 name of Thomas Dawson?
21 A Yes.
22 Q Had you at that time returned home from the
23 Jersey shore?
24 A Yes.
25 Q Were you introduced to him by any name other

1 gta

H. Pannirello-direct

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2 than Thomas Dawson?

3 A No.

4 Q How did it come about that you met Mr. Dawson?

5 A Mr. Pugliese called me at home and he said to
6 me that he wanted me to meet Tennessee, he wanted me to
7 come down to the Bronx and we would go over to meet him.

8 Q Did you go down to the Bronx?

9 A Yes.

10 Q What happened after that?

11 A We went in Mr. Pugliese's car to Bartow Avenue
12 in the Bronx.

13 Q What time of day was that?

14 A It was in the evening.

15 Q What occurred?

16 A When we got to Bartow Avenue he wasn't there
17 yet, so we waited for a while and Mr. Pugliese turned to
18 me and says, "Well, let's go down to the phone booth and
19 I'll call up and find out what happened to him."

20 Q And what happened after that?

21 A We went to the phone booth and he made the
22 call, and when he came back to the car he told me that
23 he spoke to Tennessee's wife and she said that as far as
24 she knew he was on his way up.

25 Q And did he come up that night?

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2 A No.

3 Q Do you know the reason why he didn't come up
4 that night?

5 A Yes.

6 Q What was the reason?

7 MR. LOPEZ: Objection, your Honor.

8 THE COURT: Yes. Mr. Phillips, I think you
9 ought to come up and make an offer of proof. I don't
10 know where you are going.

11 (At the side bar.)

12 THE COURT: I don't know what the answer to
13 the question is and I'm fearful -- I'm fearful --

14 MR. PHILLIPS: The car broke down on the
15 turnpike.

16 THE COURT: All right.

17 (In open court.)

18 BY MR. PHILLIPS:

19 Q Do you know the reason that Tennessee did not
20 come up that night?

21 A Yes, I do.

22 Q What was the reason?

23 A We waited a while longer and it was getting
24 pretty late, so Mr. Pugliese suggested we go down to
25 the phone booth again, that he call again.

1 gta

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2 He went down to the phone booth and he did
3 call and when he came back to me in the car he said
4 that Tennessee's wife told him that Tennessee got in
5 touch with her and he said that he was tied up on the
6 turnpike, his car broke down, and he didn't know when he
7 would be able to get up there.

8 Q Did you have occasion to meet Tennessee?

9 A Yes.

10 Q When?

11 A The following night.

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2 Q Where did you meet him?

3 A Bartow Avenue.

4 Q Did you go up to Bartow Avenue alone?

5 A No.

6 Q Who did you go up with?

7 A Mr. Pugliese.

8 Q And was this in the evening?

9 A Yes.

10 Q And did you go in Mr. Pugliese's car?

11 A Yes.

12 Q What type of car did he have?

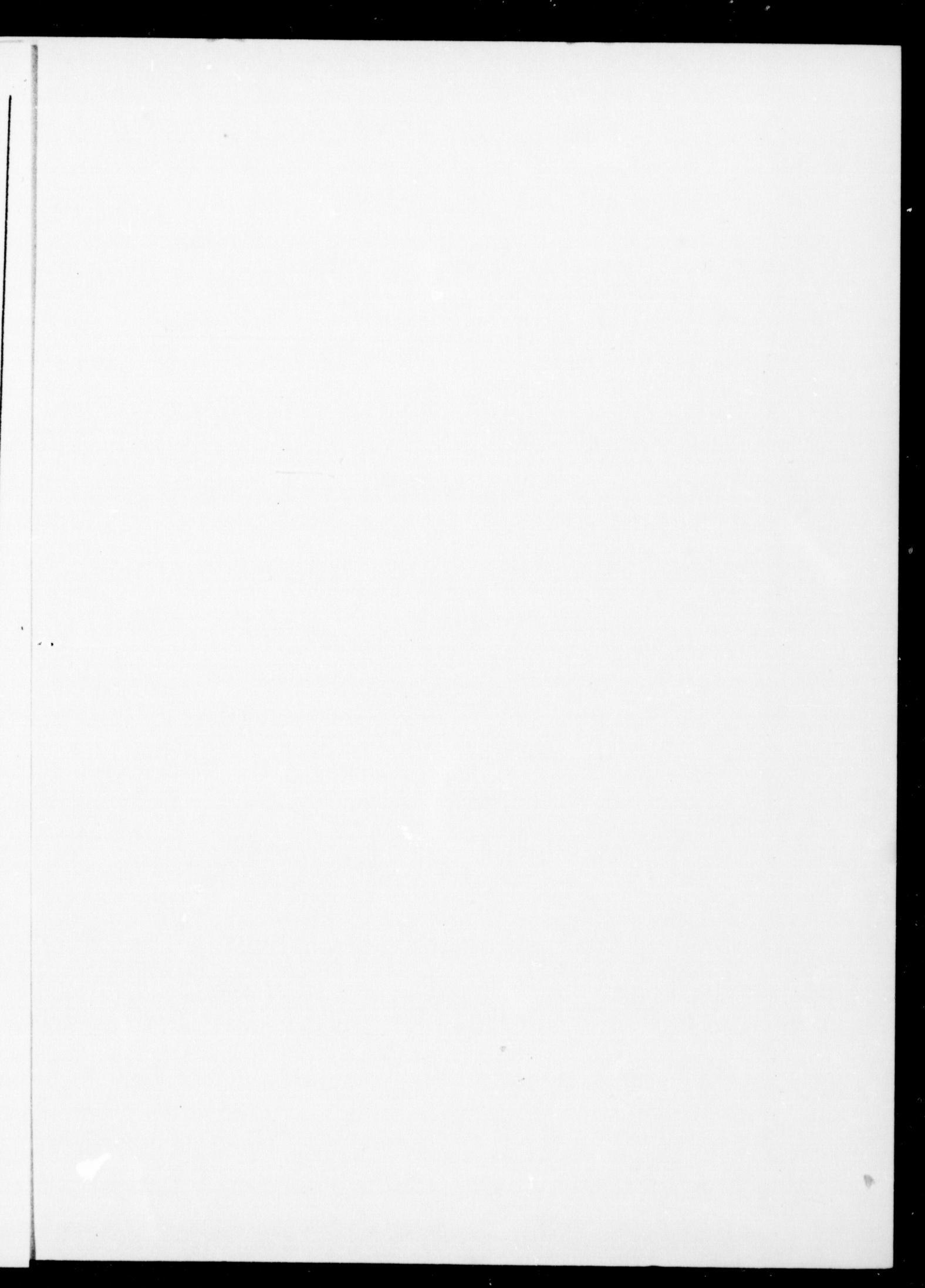
13 A He had a Cadillac El Dorado.

14 Q What year, do you recall?

15 A '69 or '70.

16 Q What happened after you met Tennessee on Bartow
17 Avenue?18 A When we got there, we were there a few minutes
19 and then Tennessee came. We were standing on the sidewalk.20 He got out of his car and he walked over to us
21 and Butch introduced me to him, and we stood there a few
22 minutes, and then Butch asked me or Mr. Pugliese asked me
23 to go to his car and take a package out of his car and
24 give it to Tennessee, which I did.

25 Q What did that package contain, do you know?



1 tp2

H.Pannirello-direct

2 A Heroin.

3 Q How much?

4 A Half a kilo.

5 Q And what happened after you gave him the package?

6 A Tennessee walked back to his car and he handed

7 the package to someone in his car and someone handed him a
8 package and he come back on to the sidewalk, and I don't
9 recall if he handed me the package or if he handed Mr.
10 Pugliese the package. Anyway, I put the package in Mr.

11 Pugliese's car.

12 Q What was in that package, do you know?

13 A Money.

14 Q Do you know how much?

15 A \$16,000.

16 Q Were you given any of that money?

17 A Yes.

18 Q Do you know how much?

19 A No, not exactly.

20 Q Approximately how much were you given?

21 A \$500, a thousand dollars.

22 Q At about this same time, did you have
23 an occasion to meet an individual named John Barnaba?

24 A Yes.

25 Q Where did you meet him?

1 tp3

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2 A At Butch's apartment.

3 Q In the Bronx?

4 A Yes.

5 MR. ELLIS: Your Honor, again, I would like the
6 witness to --

7 MR. PHILLIPS: The government would be willing
8 to stipulate that everytime the witness refers to Butch,
9 he is referring to Pugliese, not Namone.

10 MR. ELLIS: That is not satisfactory.

11 THE COURT: All right.

12 MR. PHILLIPS: Unless the witness so indicates.

13 THE COURT: No. Mr. Phillips, it is easier.

14 If you want to refer to Butch Pugliese, would
15 you please say Butch Pugliese. All right?

16 MR. DOWD: Can we have a time on this meeting?

17 Q Do you know the exact date when you met John
18 Barnaba?

19 A No.

20 Q What month was it?

21 A September.

22 Q And who was present besides you and John Barnaba
23 and Butch Pugliese?

24 MR. DOWD: Can I ask, is this 1971?

25 Q Was this 1971?

2 A Yes.

3 Q Who was present besides you, John Barnaba and
4 Butch Pugliese?

5 A No one.

6 Q Do you recall the conversation that occurred?

7 A Yes, I do.

8 Q What do you recall?

9 A Mr. Pugliese and John Barnaba were boasting about
10 how they ripped off someone for \$5000, they gave them a bad
11 package.

12 Q What did you understand bad package or the phrase
13 bad package to mean?

14 A Narcotics.

15 Q Anything more than just narcotics?

16 A Heroin.

17 Q Was it bad quality heroin that they were talking
18 about?

19 A Yes, supposedly, yes.

20 Q During September and October of 1971 --

21 MR. ROSENBERG: Excuse me, Mr. Phillips.

22 If your Honor please, I think the statement
23 that the witness just made is a conclusion. It was a
24 conclusory statement. If we are going into that, may we
25 have what Barnaba said and what Mr. Pugliese said at that

1 tp5

H.Pannirello-direct

2 time?

3 THE COURT: Yes, I guess so.

4 Will you tell us exactly what John Barnaba
5 said and exactly what Pugliese said, to the best of your
6 recollection, please?7 THE WITNESS: I can't really say the exact --
8 the exact conversation that they had between them, but
9 Barnaba told Mr. Pugliese the expression on the guy's face
10 after he gave him the package as if the guy said, "Well,
11 geez, thanks, I appreciate it," and Barnaba was laughing
12 over it because he knew that it was a bad package, and
13 Mr. Pugliese said, "Yeah, well, we whacked up the 2500
14 anyway."15 Q During September and October of 1971, did you
16 engage in any narcotics transactions?

17 A Yes.

18 Q Can you tell us with whom?

19 A With Al Greene, with Basil and Tennessee.

20 Q Do you recall how many you had with Al Greene?

21 A Three or four.

22 Q Could you tell us what you specifically did in
23 these transactions?24 A Yes. I would -- I would pick up the narcotics
25 from Mr. Pugliese and I would deliver them to Al Greene.

1 tp6

H.Pannirello-direct

2 Q How much did you deliver on these occasions?

3 A Anywhere from a quarter to a half.

4 Q A kilo?

5 A Yes.

6 Q Where did you deliver it to Al Greene?

7 A To Al Greene's apartment.

8 Q Where was that located?

9 A On 170th Street and University Avenue.

10 Q Is that the same apartment that you mentioned
earlier?

12 A Yes.

13 Q Where would you pick up the narcotics?

14 A From Mr. Pugliese.

15 Q Do you recall the price that Al Greene paid for
these narcotics?17 A I dont recall the exact, the exact price. Any-
where from 13 to 14 thousand dollars a half a kilo or
19 seven thousand dollars a quarter.

20 Q Did he pay you when he received the narcotics?

21 A Yes.

22 Q What did you do with the money?

23 A I'd give it to Mr. Pugliese.

24 Q Did he pay you anything for this?

25 A Yes.

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2 Q How much did he pay you?

3 A Anywhere from five hundred dollars to a thousand
4 dollars.

5 Q How many transactions did you have with Basil?

6 A Three or four.

7 Q Where did they occur?

8 A In the same apartment building on University
9 Avenue in Hattie Ware's apartment.

10 Q Which floor was that on?

11 A The 11th floor.

12 Q What specifically did you do in these trans-
13 actions?

14 A I would get the package from Mr. Pugliese and
15 I would deliver it to Basil in Hattie Ware's apartment.

16 Q How much did you deliver to Basil?

17 A Anywhere from a quarter to a half.

18 Q What price was Basil paying, if you recall?

19 A For a half anywhere from 12 to 13 thousand dollars
20 and for a quarter anywhere from five to six thousand dollars.

21 Q Did he pay each time you gave him the narcotics?

22 A No, not all the time.

23 Q What was the agreement or the arrangement that
24 he had with either you or Mr. Pugliese?

25 A Well, there were times that he'd give me a down

1 tp8

H.Pannirello-direct

2 payment for it and after he would sell the drugs he'd give
3 me the balance of the money.

4 Q Were you paid by Mr. Pugliese for what you did
5 in these transactions?

6 A Yes.

7 Q How much were you paid?

8 A Anywhere from five hundred to a thousand dollars.

9 Q Did you turn over the rest of the money that
10 you had received from Basil to Butch Pugliese?

11 A Yes.

12 Q Did Mr. Pugliese ever accompany you to University
13 Avenue when you delivered narcotics during this period of
14 time?

15 A Yes.

16 Q When you delivered to Basil in Hattie Ware's
17 apartment, was Hattie Ware present?

18 A Yes.

19 Q During this period of time, did Butch ever tell
20 you from whom he was obtaining the heroin?

21 THE COURT: That is Butch Pugliese.

22 MR. PHILLIPS: Butch Pugliese. Excuse me.

23 A Well, to the best of my recollection --

24 MR. LOPEZ: Objection now, what his recollection
25 is, I mean, the best of his recollection. I think the answer

1 tp9

H.Pannirello-direct

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2 calls for a definitive answer.

3 THE COURT: I will permit it.

4 Q Answer the question, please, Mr. Pannirello.

5 A No, he didn't -- he didn't tell me at that
6 particular time that he was getting narcotics from anyone
7 in particular, but from I already have known about it --

8 MR. LOPEZ: Objection now, your Honor.

9 THE COURT: Yes. What you already know is not
10 a response to the question. The question is, did he tell
11 you?

12 THE WITNESS: Not at that particular time, no.

13 Q He never told you during September or October
14 who he was getting narcotics from?

15 MR. LOPEZ: Your Honor, that has already been
16 asked and answered.

17 THE COURT: I will permit it.

18 Q You may answer the question.

19 A To the best of my recollection, no.

20 Q In September of 1971, did you have occasion to
21 see John Barnaba at Izzy's Luncheonette?

22 A Yes.

23 Q Where is Izzy's Luncheonette located?

24 A On Westchester Avenue in the Bronx.

25 Q Was anybody present besides yourself and John

1 tpl0

H.Pannirello-direct

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2 Barnaba?

3 A Yes.

4 Q Who?

5 A Myself, Mr. Pugliese, a fellow by the name of
6 Joe Sharp.

7 Q By the way, Mr. Pannirello, did Mr. Pugliese go
8 by any other name during this period of time, to your
9 knowledge?

10 A Yes.

11 Q What name was that?

12 A Georgie.

13 Q To whom was he known by the name Georgie?

14 A Tennessee --

15 MR. SUNDEN: I object.

16 THE COURT: No, I will permit it.

17 Q Would you answer the question?

18 A Tennessee, Al Greene.

19 Q Did he ever explain to you why he was going by
20 that name?

21 A Not in detail, no. He just mentioned to me
22 that he used the name to conceal his true identity.

23 Q Did there come a time in October of 1971 that
24 Mr. Pugliese went to jail?

25 A Yes.

1 tpl1.

H.Pannicello-direct

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2 Q Prior to that occasion, did you have occasion
3 to meet with him and this individual that you mentioned
4 earlier, Pat Dilacio?

5 A Yes.

6 Q How much prior to the time that he went to jail?

7 A Two to three weeks.

8 Q Where did you meet with them?

9 A At Pat Dilacio's apartment.

10 Q And where was that located?

11 A In the Bronx on Pelham Parkway.

12 Q Was anybody else present at that meeting besides
13 yourself and Butch Pugliese and Pat Dilacio?

14 A No.

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4A 2 Q Could you tell us what was discussed at that
3 time?

4 A Yes. Butch wanted me and Pat there to tell us
5 how he wanted --

6 MR. SUNDEN: I object, Judge. He is not testify-
7 ing to conversation.

8 THE COURT: Yes. Just tell us what you heard,
9 what you said, not what you think somebody might have wanted

10 Q Do you understand that, Mr. Pannirello?

11 A Yes.

12 Q Would you tell us what you recall what was said
13 by each of you on that occasion?

14 A Butch said to me and Pat -- Mr. Pugliese said
15 to me and Pat that he was going to leave us with two
16 kilos of heroin and some cash before he was to go away
17 and he wanted Pat Dilacio to pick up the heroin and take
18 it to a stash and he wanted me to take it from the stash
19 and deliver it to the customers.

20 Q Did he mention who the stash was?

21 A To the best of my recollection now, no.

22 Q What else was discussed?

23 A He also told us that we were to give Barnaba
24 goods for the same price that we were to pay for them and
25 we agreed to that.

1 hp2

H.Pannirello-direct

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2 He also told us how he wanted to --- how did he
3 say it -- he also wanted us to take \$500 apiece a month,
4 myself, Pat Dilacio, and to give \$500 a month to his wife
5 Anna, and the rest of the money he wanted us to put in a
6 stash and when he come home we were going to split it up
7 between the three of us.

8 Q Did you and Pat agree to that?
9 A Yes.

10 Q Do you recall anything else being discussed at
11 that time?

12 A Yes. He also told me and Pat that Basil owed
13 him \$10,000 and he wanted me and Pat to collect it for him.
14 Q Do you recall anything else happening on that
15 occasion?

16 A Yes. Mr. Pugliese told me to go down and call
17 Tennessee.

18 Q Did he give you Tennessee's number, telephone
19 number?

20 A Yes, he did.

21 Q Did he give you any other telephone numbers
22 on that occasion?

23 A Yes, he did.

24 Q Would you tell us whose telephone numbers he
25 gave you?

1 hp3

H.Pannirello-direct

2 A He gave me Al Greene's telephone number, Hattie
3 Ware's telephone number, Tennessee's telephone number,
4 Pat Dilacio's telephone number. I believe that was all,
5 that was the phone numbers he gave me.

6 Q Did he give any telephone numbers to Pat Dilacio
7 in your presence?

8 A Yes, he did.

9 Q Whose numbers did he give to him?

10 A He gave Al Greene's phone number, Basil -- Hattie
11 Ware's phone number, Tennessee's phone number, I believe
12 Barnaba's phone number and Di Napoli's phone number.

13 Q Joseph Di Napoli's phone number?

14 A Yes.

15 Q Did you receive from Butch Pugliese Di Napoli's
16 phone number?

17 A No.

18 Q Was it explained to you why you did not receive
19 Di Napoli's phone number?

20 A Yes. I wasn't going to be in contact with him.
21 Pat Dilacio was --

22 MR. LOPEZ: Objection, your Honor. Who is talking
23 now?

24 THE COURT: I don't know. We will find out,
25 though.

1 hp4

H.Pannirello-direct

2 Who said you were not to be in contact?

3 A Mr. Pugliese told me that he was going to give
4 Pat Dilacio Joseph Di Napoli's phone number and he wasn't
5 going to give it to me because I wasn't going to be in
6 contact with him.7 Q What was the purpose in giving the telephone
8 number of Joseph Di Napoli to Pat Dilacio, do you know?9 MR. LOPEZ: Objection, your Honor. It calls
10 for the operation of somebody else's mind.11 THE COURT: Not necessarily. In the conver-
12 sation did anyone say why the number was being given to
13 Dilacio?

14 THE WITNESS: Yes.

15 THE COURT: What was said and who said it?

16 THE WITNESS: Mr. Pugliese said that, "I am
17 going to give Pat Dilacio Joseph Di Napoli's phone number
18 and he is going to do all the telephoning to him," and I
19 wasn't going to make any telephone calls to him.20 Q Was it mentioned at any time during
21 this meeting by Mr. Pugliese or anybody what the purpose
22 of calling Joseph Di Napoli was to be?23 MR. LOPEZ: Objection, your Honor. Now he is
24 leading.

25 THE COURT: He might be, but I will permit it.

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H.Pannirello-direct

2 Go ahead, answer the question.

3 A Yes. He said that Pat Dilacio was going to
4 pick up from Joseph Di Napoli and I was to make the
5 deliveries to our customers.

6 Q Pick up what from Joseph Di Napoli?

7 A Narcotics.

8 Q Was anything mentioned about the price that was
9 to be paid for the narcotics that Pat Dilacio was to pick
10 up?

11 A Yes.

12 Q What was the price?

13 A \$22,000.

14 Q Per what?

15 A Per kilo.

16 Q Who was to make the payments and to whom was the
17 money to be paid?

18 A Pat Dilacio --

19 MR. LOPEZ: Objection. Your Honor, is this
20 still conversation?

21 THE COURT: I gather it is.

22 MR. PHILLIPS: I will rephrase the question.

23 THE COURT: If you would, please.

24 Q Did Butch Pugliese say at any time who was to
25 make the payments, that is, the \$22,000 per kilo, and to

1 hp6

H.Pannirello-direct

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2 whom the money was to be paid?

3 A Yes. The money was to be paid back to Mr.
4 Pugliese.

5 Q You didn't understand the question, I don't think,
6 Mr. Pannirello.

7 You mentioned a minute ago \$22,000 per kilo was
8 supposed to be paid, is that correct?

9 A Yes.

10 Q Would you tell us, if you can remember, if Mr.
11 Pugliese mentioned who was to make the payment and to whom
12 the money was to go.

13 A Mr. Mr. Pugliese told us that we were going to
14 run the business for him when he was away he said he was
15 going to leave us with two kilos and the price of the two
16 kilos were \$22,000 apiece and that we would owe Mr.
17 Pugliese the money for the two kilos and we were to make
18 payments to his wife.

19 Q I understand that. In the future I believe you
20 testified Mr. Pugliese said that Mr. Dilacio was to pick
21 up narcotics from Mr. Di Napoli, is that correct?

22 A Yes.

23 Q Did he mention who was to pay the money, if
24 any was to be paid, for the narcotics that was to be picked
25 up by Mr. Dilacio from Mr. Di Napoli?

1 hp6a

H.Pannirello-direct

2 A Yes. Pat Dilacio was to pay Joseph Di Napoli
3 for the narcotics.

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2 Q You were about to mention calling Tennessee Dawson.
3 Did you call him that same evening?

4 THE COURT: Hold on a second. Do you
5 think this is an appropriate spot for an afternoon break?

6 MR. PHILLIPS: Yes, your Honor.

7 THE COURT: All right, fine.

8 Marshal, would you escort the jury out.

9 (The jury left the courtroom.

10 MR. LOPEZ: Your Honor, before the witness
11 leaves, may the court direct the witness and the govern-
12 ment that this witness not be questioned by the govern-
13 ment regarding any matter in his direct testimony,
14 your Honor, any part of it, including the identification
15 or anything else, in other words, that the witness is not
16 to talk to anyone about this matter and the government
17 is not to address any questions to him or speak to him
18 about it.

19 THE COURT: Listen, I have not had to make
20 such directions before and nothing has happened. I
21 assume nothing is going to happen now. Why do I
22 have to make a direction.

23 MR. LOPEZ: I think to be cautious, your
24 Honor --

25 THE COURT: I don't think that that much

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H. Pannirello-direct

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2 caution is necessary.

3 All right. Go out with the marshal.

4 (The witness left the courtroom.)

5 MR. DOWD: Your Honor, just one point I
6 would like to put on the record.

7 THE COURT: All right.

8 MR. DOWD: Mr. Curley is going to do it, so
9 I will join in what he is going to say.

10 THE COURT: All right, Mr. Curley.

11 MR. CURLEY: Your Honor, I would like the
12 record to note in behalf of my client that when Mr. Harry
13 Pannirello was asked to identify the person he referred
14 to as Hank, defendant John Springer, having possibly some
15 difficulty, the government asked him to step down and
16 come over to this area. Two I suppose marshals
17 whose custody he is in stood up and moved very close to
18 the area that the witness had vacated, that is, the wit-
19 ness seat, several marshals in the courtroom came close
20 to the defense area and stood around as this identification
21 was being made.

22 I say this because I think clearly for the
23 first time an element of fear has been demonstrated
24 clearly to the jury and I don't think any instruction
25 that the judge can make at this time on behalf of any

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H. Pannirello-direct

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2 defendant, specifically in this instance my client,
3 can eliminate the image that was probably seen by the
4 jury in whole or in part of this reaction and this pos-
5 sibility of danger as it arose during the course of this
6 trial.

7 What Mr. Dowd and I have been discussing in this
8 problem is prejudice and I am moving on behalf of my
9 client for a mistrial and severance.

10 THE COURT: All right. I sat through
11 the entire thing. I found no aura of fear or threat
12 or anything else.

13 Your motion for a mistrial and severance are
14 completely, severally and jointly denied.

15 MR. LEIGHTON: Can all counsel join in
16 that motion, your Honor?

17 THE COURT: Yes. Everybody has it and
18 they are all denied.

19 MR. DOWD: Could the court personnel be
20 instructed in the future if a like circumstance takes
21 place not to repeat the actions so that there is no
22 possibility --

23 THE COURT: The action as far as I am
24 concerned in no way indicated no threat or fear or anything
25 else. It merely was the activity of highly-trained

2 and most competent people to place themselves in a position
3 should anything possibly happen. There was no
4 threat being exuded and no fear.

5 My goodness, these people know what they are
6 doing. They do it with the greatest amount of discretion.
7 I don't consider it necessary to make any instruction
8 whatsoever to the marshals in this district.

9 MR. DOWD: Your Honor, this is no reflection
10 on the marshals. I don't know if it was being under-
11 stood.

12 I am not afraid of the marshals. What I am
13 saying is that they might have created in the minds of the
14 jury the fact that there is something to be concerned
15 about when Harry Pannirello comes around and stands
16 near defense counsel and the defendants in that he may
17 be afraid or he may be in jeopardy and I don't want
18 that aura created in the minds of the jury. That
19 is the whole point.

20 THE COURT: I don't think it has been and
21 I don't think it will be.

22 (Recess.)

23 (In open court; jury not present.)

24 MR. SUNDEN: Your Honor, before the jury
25 comes in I would just like to apprise the court

1 jha

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2 of the state of affairs as to potential cross examination
3 of Mr. Pannirello.

4 There still exists untranscribed transcript
5 and unduplicated, as I understand it, about half of the
6 Harry Pannirello tapes here. I on behalf of my client
7 would really not be prepared to commence cross examination
8 until I had an opportunity to look at those.

9 Now, I am assigned here and do not have the
10 facilities to duplicate those tapes and, as your Honor has
11 known all along, Mrs. Rosner has kindly taken on the
12 burden of doing that. As I understand it from Mrs.
13 Rosner, having tried to keep in touch with her throughout
14 this period, the second half of the Harry Pannirello tape,
15 the Adler Service is still in the midst of fighting with
16 it. The copy given by the government may not have been
17 of A-No. 1 quality. The government has said they would
18 turn over the original if the service could not transcribe
19 the copy Mrs. Rosner has.

20 The point is to me standing here as an
21 assigned attorney, not having the facility to do that,
22 I just want to apprise the court in terms of any delay it
23 might cause or anything I would not feel on behalf of my
24 client that I could commence cross examination until I
25 had actually received the transcript, the same as any other

1 jha

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2 attorney in the case to their witnesses, until I ac-
3 tually received the transcript of the second half of the
4 Harry Pannirello tape.

5 THE COURT: Mr. Sunden, we will take that
6 up at the end of the day. Let's get on with the
7 testimony.

8 MR. PHILLIPS: I just want to make one
9 statement for the record, your Honor. That tape was
10 turned over to counsel six weeks ago.

11 THE COURT: Yes, I am aware of that.

12 All right. Bring back the jury.

13 By the way, I suspect we will be sitting
14 through until 5 o'clock this afternoon. Mr. Panzer was
15 the only one who told me about any difficulties. I
16 think I squared those away for you.

17 MR. PANZER: Thank you.

18 THE COURT: All right.

19 (Jury present.)

20 MR. DOWD: Your Honor, may Mr. Phillips
21 and I just approach the side bar off the record for a mo-
22 ment?

23 THE COURT: Yes, sure.

24 (Pause.)

2 H A R O L D P A N N I R E L L O resumed.

3 THE COURT: All right, Mr. Phillips, you
4 may inquire.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. PHILLIPS:

7 Q Mr. Pannirello, on this occasion that you
8 met with Mr. Dilacio and Butch Pugliese, I believe you
9 were about to tell us about a telephone call you made
10 that evening to Tennessee, is that correct?

11 A Yes.

12 Q Did anybody direct you to make that telephone
13 call? call? call?

14 A Yes, Mr. Pugliese.

15 Q What did he tell you to do?

16 A Mr. Pugliese said for me to go down to the
17 phone booth and call Tennessee and tell him to come up
18 the following night?

19 Q Did you do that?

20 A Yes, sir.

21 Q Did you tell Tennessee what he was to come up
22 for?

23 A Yes, I did I told him to come up, we had
24 some goods for him.

25 Q Did you hear Butch Pugliese give any directions

1 gta H. Pannirello-direct 2166

2 to Pat Dilacio that evening?

3 A Yes, I did.

4 Q What did you hear him tell Pat Dilacio?

5 A He told Pat to go and pick up the goods from
6 DiNapoli and take them to his garage and stash them.

7 Q Whose garage?

8 A Mr. Pugliese's garage.

9 Q Did he tell him how much goods you should pick
10 up from DiNapoli?

11 A Yes, two kilos.

12 Q What happened after you made the telephone
13 call to Tennessee?

14 A I went back to Pat Dilacio's apartment and I
15 told Mr. Pugliese that I called Tennessee and that he
16 would be up the following night.

17 Q What did Mr. Pugliese say?

18 A He said, "Okay, fine," and he gave me a key to
19 his garage.

20 Q What, if anything, did you then do?

21 A I went home after that.

22 Q What did you do the next night?

23 A The next night I went down to the Bronx --

24 Q When you say "down," where were you going from?

25 A From New Jersey.

1 gta H. Pannirello-direct 2167

2 Q You go down from New Jersey to the Bronx?

3 A Well, from north, the northern part of New

4 Jersey over the George Washington Bridge.

5 Q Where were you living at that time?

6 A In Closter.

7 Q Where did you go in the Bronx?

8 A To two blocks from where Mr. Pugliese was

9 living. He had a garage where he kept his construction

10 equipment.

11 Q What did you do there?

12 A I went into the garage and behind a motor box

13 that he had -- he had two or three motor boxes there

14 and behind them there was a small bag, sort of a gym bag,

15 and I reached in there and I took out a half a kilo.

16 Q How did you get in the garage?

17 A I had the key. I used the key.

18 Q What did you do with the half a kilo?

19 A I took it up to Bartow Avenue and I gave it

20 to Tennessee.

21 Q Did you go alone up there?

22 A Yes.

23 Q Did Tennessee pay for it?

24 A Yes.

25 Q How much did he pay, if you recall?

1 gta H. Pannirello-direct .2168

2 A \$16,000.

3 Q What did you do with the money?

4 A I went to Pat Dilacio's apartment and the two
5 of us counted the money and I took \$4000 of it and Pat took
6 approximately the same amount of it and Pat put the
7 rest of the money in a suitcase in his closet.

8 Q Did you keep the \$4000?

9 A Yes, sir.

10 Q Some time thereafter did Butch go to jail?

11 A Yes.

12 Q Approximately how long thereafter?

13 A Three or four weeks. Three or four weeks.

14 Q And before Butch went to jail did you have
15 occasion to be at his house, Butch's house, Butch Pug-
16 liese's house? Excuse me.

17 THE COURT: Butch Pugliese.

18 A Yes, yes.

19 Q What was the occasion that you were at his
20 house?

21 A He wanted a little gathering of his friends
22 before he was to go away to say goodbye to them.

23 Q Do you recall who was there?

24 A Yes, I do. There was myself, there was
25 Mr. Pugliese, his wife, his mother-in-law, there was



1 gta H. Pannirello-direct 2169

2 Jonn Barnaba, there was Sinatra, a fellow by the name of
3 Joe Sharp.

4 Q You mentioned Sinatra. Who was Sinatra?

5 Did you know at that time his real name?

6 A No.

7 Q Would you look around the courtroom and tell
8 us if you see him in the courtroom?

9 A Yes, I do.

10 DEFENDANT GAMBA: To the best of my
11 recollection --

12 Q Will you tell us, was that the individual
13 that just stood up? That just stood up?

14 A Yes.

15 MR. PHILLIPS: May the record reflect that
16 the witness has identified the defendant Gamba.

17 Q Had you ever met him before? Mr. Pannirelio,
18 had you ever met Sinatra before?

19 A Yes.

20 Q Where had you met him?

21 A At his apartment in the Bronx.

22 Q Where in the Bronx was it located?

23 A Off Rosedale Avenue.

24 Q Who introduced you to him?

25 A Mr. Pugliese.

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H. Pannirello-direct

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2 Q Did you have occasion to go to court the day
3 that Butch Pugliese went to jail?

4 A Yes.

5 Q Did you see anybody in court that you recognize?

6 A Yes.

7 Q Who did you see?

8 A John Barnaba was there, Basil and his girlfriend
9 Bunny.

10 Q The 1-1/2 kilos of narcotics that remained from
11 the two kilos that Pat Dilacio had been directed to
12 pick up from Joe DiNapoli, what happened to those?

13 A Half a kilo of it went to Barnaba and the rest
14 of it was given to Basil, Al Greene.

15 Q Would you tell us about the transaction with
16 Barnaba? Who actually gave him the half kilo?

17 A I don't recall who actually gave it to him.

18 It was either myself or Pat Dilacio.

19 Q Do you know how much Barnaba paid for it?

20 A Yes. \$11,000.

21 Q Did he actually pay the full \$11,000?

22 A No, he didn't.

23 Q When did this occur, by the way?

24 A October.

25 Q 1971?

1 gta H. Pannirello-direct 2171

2 A Yes.

3 Q Did you have occasion to see Barnaba after he
4 received the half kilo?

5 A Yes.

6 Q Where did you see him?

7 A At Pat Dilacio's apartment.

8 Q Did you have a conversation with --

9 MR. PHILLIPS: Withdrawn.

10 Q Was Pat Dilacio present?

11 A Yes.

12 Q Anybody else present?

13 A No. No.

14 Q Did the three of you have a conversation?

15 A Yes.

16 Q What was the conversation?

17 A Barnaba brought me and Pat Dilacio part of the
18 money that he owed us for the goods that we gave him.

19 Q How much did you give you or bring?

20 A I think it was \$5000.

21 Q Did you ever receive the other \$6000?

22 A Part of that.

23 Q How much, do you know?

24 A I think it was \$3500.

25 Q How much of the other kilo went to Al Greene,

1 gta

H. Pannirello-direct

2172

2 do you recall?

3 A No, I don't.

4 Q Do you know if any of it went to him?

5 A Yes.

6 Q Who delivered it to him?

7 A Myself.

8 Q Where did you deliver it to him?

9 A To his apartment.

10 Q Do you know how much he paid for it? Did he
11 pay for it when you delivered it to him?

12 A Yes.

13 Q How much did he pay you? On that -- to what --

14 A If it was a half a kilo, anywhere from --

15 MR. LOPEZ: Objection to this, your Honor.

16 THE COURT: Yes.

17 Do you remember how much he actually paid you?
18 If you don't remember, say so.

19 THE WITNESS: Not exactly, no.

20 Q Do you know what rate he was paying at that
21 time?

22 A Around \$28,000.

23 Q Per what?

24 A Per kilo.

25 Q Did any of it go to Basil?

1 gta

H, Pannirello-direct

2173

2 A Yes.

3 Q Do you know how much?

4 A Not exactly, no.

5 Q Can you approximate?

6 A A quarter kilo.

7 Q Who delivered it to him?

8 A Myself.

9 Q Where did you deliver it to him?

10 A In the Bronx on University Avenue in Hattie
11 Ware's apartment.

12 Q Was Hattie Ware present?

13 A Yes.

14 Q Did you ever deliver any narcotics directly to
15 Hattie Ware?

16 A Yes.

17 Q Do you recall how much you delivered to her?
18 First of all, on how many occasions?

19 A Once.

20 Q And how much did you deliver to her?

21 A To the best of my recollection, it was a half
22 a kilo.

23 Q And who was it for?

24 A For Basil.

25 MR. LOPEZ: Your Honor, may we have a date

1 gta H. Pannirello-direct

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2 on that?

3 Q Do you know when that was?

4 A No, I don't.

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2 Q After you sold the narcotics that was left
3 after Butch Pugliese went to jail, what did you and Patty
4 do after that?

5 A We both decided to get in touch with Di Napoli
6 to see if we can get some more narcotics from him.

7 Q Did either you or Patty attempt to get in touch
8 with Di Napoli?

9 A Patty did.

10 Q What did he do?

11 MR. LOPEZ: Excuse me, your Honor. May we have
12 a date or time or a year?

13 Q Do you know when this was? I am sorry. Do you
14 know when this was, Mr. Pannirello?

15 A No, not exactly.

16 Q Do you know approximately when it was, what month
17 it was?

18 A December -- late November, December of '71.

19 Q And do you recall what Patty did?

20 MR. ELLIS: Your Honor, I am going to object
21 unless it happened in the witness's presence.

22 THE COURT: Mr. Phillips, do you want to ask the
23 questions or do you want me to?

24 MR. PHILLIPS: Let me rephrase the question.

25 Q Did Patty tell you what he did in this connection?

2 A Yes. He told me that he called.
3 Q Called who?

4 A Joseph Di Napoli.

5 MR. ELLIS: Objection.

6 Q What was the result of his call?
7 THE COURT: No, I will permit it.

8 A He told me that he called Joseph Di Napoli and
9 that he was going to give him a kilo.

10 Q Who was going to give who a kilo?

11 A Di Napoli was going to give Dilacio a kilo.

12 Q What was the price?

13 A \$22,000.

14 Q What arrangement did you make, if any, with
15 Dilacio concerning the kilo?

16 A Dilacio was to pick it up from Di Napoli and take
17 it to the stash.

18 Q Where was the stash?

19 A It was at Sinatra's house.

20 Q Was this the first time, to your knowledge, that
21 Sinatra's house was ever used as the stash?

22 MR. KING: I didn't hear the question, please.
23 THE COURT: Repeat the question, please.

24 (Record read.)

25 A No.

1 tp3

II.Pannirello-direct

2 Q When before had it been used?

3 A Mr. Pugliese said that he had used Sinatra as
4 a stash before.

5 Q Did you have occasion to go to Sinatra's house?

6 A Yes.

7 Q Do you recall when?

8 A Yes. The night Pat Dilacio picked up the kilo
9 from Di Napoli.10 Q Do you recall when that was? Can you give us a
11 date?

12 A Not a date.

13 Q Can you give us the month?

14 A Late November, December.

15 Q Of 1971?

16 A Yes.

17 Q Who was present when you arrived at Sinatra's
18 house?

19 A Pat Dilacio, Sinatra and his wife.

20 Q Whose wife?

21 A Sinatra's.

22 Q Did you have a conversation with any of them
23 regarding the narcotics?

24 A Yes, upstairs in Sinatra'a bedroom.

25 Q What was the conversation?

1 tp4

H.Pannirello-direct

2 A I asked Pat Dilacio how much he had, and he said
3 a kilo, and I also asked him if it was still standing the
4 same, and he said yes.

5 Q What do you mean still standing the same?

6 A Standing -- what I meant by standing was how
7 many times can the package be cut, and he said four times.

8 Q Did he see any narcotics in Sinatra's house that
9 day?

10 A Yes.

11 DEFENDANT GAMBA: You lying bastard.

12 THE COURT: All right. Mr. Gamba, that will be
13 the absolute last time I hear from you. Do you understand
14 me?

15 DEFENDANT GAMBA: I am sorry, your Honor.

16 THE COURT: Go ahead.

17 Q Will you tell me what you saw and where you saw
18 it?

19 A It was in a suitcase that Sinatra had in his
20 bedroom and he put it on the bed, I opened it and looked
21 into it.

22 Q What did you see inside?

23 A I saw two clear packages with a white substance
24 in it. It was heroin.

25 Q Did you pay or Patty pay Sinatra for keeping

1 tp5

H.Pannirello-direct

2 this heroin there?

3 A Yes.

4 Q How much?

5 A \$300 a week.

6 Q For what period of time or how long did you pay
7 him that?

8 A Four or five months.

9 Q Did you or Patty sell this narcotics?

10 A Yes, sir.

11 Q To whom was it sold and by whom? Withdrawn.

12 Let me rephrase the question.

13 Did you see it or did Patty sell it?

14 A I sold it.

15 Q To whom did you sell it?

16 A To a fellow by the name of -- excuse me, can
17 you go over that again? Can you ask me that question again?18 Q To whom did you sell the narcotics that you
19 just testified about was in Sinatra's house that Patty
20 Dilacio had purchased from Joe Di Napoli?

21 A Half of it went to --

22 MR. ELLIS: Objection to the form of the question,
23 your Honor.24 THE COURT: Repeat the question.
25 (Record read.)

1 tp6

H.Pannirello-direct

2 THE COURT: No, that is all right, go ahead,
3 answer the question.

4 A To the best of my recollection, half of it was
5 sold --

6 MR. SUNDEN: Objection.

7 THE COURT: No, I will permit it.

8 Go ahead, answer it.

9 A Half of it was sold to Tennessee and the rest
10 of it was sold to Basil and Al Greene.

11 Q Did you deliver it to Tennessee?

12 A Yes.

13 Q Where did you deliver it to Tennessee?

14 A On Route 46, there is a Howard Johnson's Restau-
15 rant.

16 Q Was that the first time that you delivered any
17 narcotics to Tennessee at the Howard Johnson's on Route 46?

18 A Yes.

19 Q Route 46 where? What state are we talking about?

20 A In New Jersey.

21 MR. LOPEZ: Can we have a date, your Honor?

22 Q Do you know when this was, Mr. Pannirello?

23 A No, I don't.

24 Q Do you know what month it was?

25 A No.

2 Q Did Tennessee come alone?

3 A Yes.

4 Q Did you also deliver to Basil?

5 A Yes.

6 Q At 1380 University Avenue?

7 A Yes.

8 Q Incidentally, were all the deliveries that you
9 made to Basil the same place?

10 A Yes.

11 Q And that is Hattie Ware's apartment?

12 A Yes.

13 Q How much of this kilo did you sell to Basil and
14 how much to Tennessee?

15 A It was a half a kilo to Tennessee and it was a
16 quarter to Basil.

17 Q How about the other quarter?

18 A Al Greene.

19 Q Did you or Patty attempt to purchase any more
20 narcotics from Joe Di Napoli?

21 A Yes.

22 Q When?

23 A December, from December to January of '72 --
24 from December of '71 -- from December of '71 up until
25 January of '72 or February.

1 tp8

H.Pannirello-direct

2 Q And who made the attempts?

3 A Pat did.

4 Q How many did he make?

5 MR. ELLIS: Objection, your Honor, unless it
6 was done in this witness's presence.

7 THE COURT: Do you want to reframe the question?

8 Q Did Patty ever make an attempt to purchase
9 narcotics from Joe Di Napoli in your presence?

10 A Yes.

11 Q How did he do it?

12 A He called on the telephone when I was there.

13 Q Do you recall exactly what Patty said?

14 A No, not exactly what he said.

15 Q Do you recall to the best of your recollection
16 what he said?

17 A Yes.

18 MR. LOPEZ: Your Honor, may we have a date here
19 now?

20 Q What month was this?

21 THE COURT: I think he gave dates as December,
22 1971, or January, 1972, but I might be wrong.

23 Go ahead, ask him what date it was.

24 A Yes, sir, that was the date.

25 Q The date that the Judge just mentioned?

1 tp9

H.Pannirello-direct

2 A Yes.

3 Q Do you recall the month that this particular phor
4 call took place?

5 A Yes.

6 Q Would you tell us what you heard Patty say?

7 A Yes. I was in the apartment, at his apartment
8 at the time, and he dialed the phone number on the telephone
9 and I heard him say, "Hello," to someone and then I heard
10 him say, "Okay, I'll be in touch with you."

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6A 2 Q Did you hear him mention any name?

3 A Yes. I heard him mention Joe.

4 Q As the person that he was talking to?

5 A Yes.

6 Q Did you have a conversation with him after he
7 got off the phone?

8 A Yes.

9 Q What was the conversation?

10 A I asked him what he had said or what the party
11 had said on the line.

12 Q Did you say, "What did the party say"?

13 A No.

14 Q What did you say?

15 A I said, "What did he say?"

16 Q Meaning who?

17 MR. LOPEZ: Objection, your Honor.

18 THE COURT: No, no. Let's just take what he
19 said. He said, "What did he say"?

20 THE WITNESS: Yes.

21 THE COURT: What happened next? Somebody responded
22 to this. I assume it's Dilacio, right?

23 THE WITNESS: Yes.

24 THE COURT: What did Dilacio say?

25 THE WITNESS: Dilacio told me that Joe told him

1 hp2

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2 to sit tight and he'll let him know as soon as something
3 comes up, but there was nothing happening right now.

4 Q Did Pat Dilacio make any further attempts to
5 purchase narcotics from Di Napoli during this period of
6 time?

7 A Yes.

8 Q Was he successful?

9 A No.

10 Q What happened as a result?

11 MR. LOPEZ: Objection to that, your Honor.

12 THE COURT: I believe it to be an attempt not to
13 lead.

14 MR. PHILLIPS: I can't ask any less leading a
15 question, your Honor.

16 THE COURT: I will permit it under those circum-
17 stances. Go ahead, answer.

18 Q What, Mr. Pannirello, occurred or happened as
19 a result?

20 A Well, what happened was we sat and we waited for
21 quite a long time and Pat tried to get in touch with Joe
22 and Joe just kept putting him off, telling him that there
23 was nothing around, sit tight, you know, to stay in touch,
24 and after this went on for quite a while we decided, me
25 and Pat decided to get in touch with Carmine Pugliese.

1 hp3

H.Pannirello-direct

2 Q Who is Carmine Pugliese?

3 A Butch's brother.

4 Q What happened then?

5 A Well, we agreed to get in touch with him and
6 Pat called me at home one evening. This was in March.

7 Q Of 1972?

8 A Yes.

9 Q What part of March?

10 A The first or the second week of March.

11 Q And what happened?

12 A Pat called me one evening at my home and he told
13 me to come down to his apartment, that Carmine was going to
14 be there.15 I went to his apartment that night and Carmine
16 was there.

17 Q Did the three of you have a conversation?

18 A Yes.

19 Q What was the conversation?

20 A Me and Pat asked Carmine if he can help us out
21 with some goods.22 THE COURT: You are talking about Carmine Pugliese,
23 right?

24 THE WITNESS: Yes.

25 THE COURT: All right.

1 hp4

H.Pannirello-direct

2 A And Carmine says yes. And we also asked him if
3 we can have the goods on consignment and Carmine says yes.
4 And then he said -- he says, "I'll give it to you and
5 Patty on consignment," he says, "as long as it don't have
6 anything to do with my brother."

7 Q Was anything else said at that time that you
8 can recall?

9 A Yes. We had told Carmine what happened --

10 MR. SIEGAL: Could we have the last name?

11 THE COURT: When you are talking about Carmine
12 at this point you are talking about Carmine Pugliese, right?

13 THE WITNESS: Yes.

14 THE COURT: All right. Go ahead, finish.

15 Q Proceed. What else was discussed or said that
16 you can recall?

17 A Yes. We -- me and Pat explained to Carmine
18 Pugliese what had happened with Joe Di Napoli.

19 Q What did you say?

20 A Well, we told him that we weren't able to get
21 any more goods from him, that he didn't have anything, and
22 Carmine told me and Pat after, you know, we told him,
23 he said, "Well, I know for a fact that he does have --
24 that he did have goods and he was sitting on them, he wasn't
25 giving them to anyone."

H.Pannirello-direct

2 Q Did you purchase any narcotics from Carmine
3 Pugliese?

4 A Yes.

5 Q Do you recall the first purchase, how much it
6 was for?

7 A One kilo.

8 Q Who actually picked it up?

9 A I don't recall who actually picked it up. I --
10 Q When did it occur?

11 I am sorry. I didn't mean to interrupt you.
12 Did you finish your answer?

13 A I was about to say I don't recall who actually
14 picked it up. It was -- oh, no. I picked it up. I'm
15 sorry. I did pick it up.

16 Q When was this, do you recall?

17 A Yes. This was in March.

18 Q And where did you go to pick it up?

19 A I went to Thieriot Avenue in the Bronx.

20 Q Did Carmine give it to you, Carmine Pugliese,
21 that is?

22 A No, no.

23 Q How did you pick it up?

24 A That same night Carmine told me that --

25 Q When you say that same night --

2 A The night we had the meeting with Carmine, me and
3 Pat, he said that he would have the goods in a car on
4 Thierict Avenue and he described the car to me and I would
5 go into the interior of the car and take a key out of the
6 ashtray and go to the trunk of the car and take out the
7 goods.

8 Q Did you do that?

9 A Yes.

10 Q How much was in the trunk of the car?

11 A One kilo.

12 Q What did you do with that one kilo?

13 A It was sold.

14 Q Did you take it anywhere after you took it out
15 of the trunk of the car?

16 A Yes.

17 Q Where did you take it?

18 A To Sinatra's.

19 Q Where in Sinatra's house did you put it?

20 A In his bedroom, in a suitcase.

21 Q Did you put it there or did somebody else put
22 it there?

23 A I dont recall.

24 Q Did you sell that heroin?

25 A Yes.

2 Q To whom did you sell it?

3 A March of '72. I don't recall.

4 Q Did there come a time at about that time, the
5 Spring of 1972, that you met an individual named Allen? [#]

6 A Yes.

7 Q Who introduced you to Allen?

8 A Tennessee.

9 Q Where was Allen from?

10 A From the Baltimore-Washington, D.C. area.

11 Q Where did he introduce you to him?

12 A At Howard Johnson's on Route 46 in Jersey.

13 Q Do you see Allen in the courtroom?

14 A Yes.

15 Q Would you point him out, where he is sitting and
16 what he is wearing?

17 A He is sitting to my right and he has on a red
18 shirt and a red tie and a dark suit. He also has a mustache
19 and goatee.

20 MR. PHILLIPS: Does counsel want any further
21 identification?

22 MR. LEIGHTON: We will stipulate that it's the
23 defendant Robinson.

24 Q Can you recall whether or not you sold anyo f
25 this kilo that you purchased from Carmine Pugliese to Allen?

H.Pannirello-direct

2 A Yes.

3 Q Do you recall how much you sold to him?

4 A The whole amount, I believe.

5 Q Who actually delivered it to him?

6 A Either myself or I directed my brother-in-law
7 Jimmy to deliver it to him.

8 Q What is Jimmy's last name?

9 A Provitero.

10 Q Did Allen pay for it?

11 A Yes.

12 Q How much did he pay?

13 A \$37,000.

14 Q Do you know a person or did you know a person
15 by the name of Butch Ware?

16 MR. SUNDEN: Objection.

17 THE COURT: No, I will permit it.

18 A Yes.

19 Q Was he in any way related to Hattie Ware?

20 A Yes. He was her brother.

21 Q Do you see him in the courtroom anywhere?

22 A No.

23 Q Would you come down here, please, Mr. Pannirello,
24 and starting with where I am standing and going around to
25 that door over there see if you see the individual in the

1 hp9

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2 courtroom, by walking through here.

3 MR. SUNDEN: I object to this procedure,
4 Judge, on the grounds the witness has already stated that
5 he could not identify the person.

6 THE COURT: Yes, but I will permit it.

7 Q Would you go all the way around, please, Mr.
8 Pannirello.

9 A Yes, I do see him.

10 Q Would you take the witness stand, please.

11 When did you first meet him, if you recall?

12 Q Would you point him out -- I am sorry -- would
13 you point him out?

14 A Yes. He is sitting right there with a black coat
15 on, a furry collar. He has a goatee and mustache.

16 MR. PHILLIPS: May the record reflect that the
17 witness has identified the defendant William Alonzo.

18 Q When did you first meet him?

19 A I don't recall.

20 Q By the way, did you ever know him by the name
21 William Alonzo?

22 A No.

23 Q Where did you meet him?

24 A I met him at Hattie Ware's apartment in the
25 Bronx.

2 H.Pannirello-direct

3 Q Did you have a conversation with him when you
4 met him in Hattie Ware's apartment?

5 A Yes.

6 Q Was anybody else present?

7 A No.

8 Q What was the conversation?

9 A He had told me that he wanted to get rolling
10 again and he didn't have any money.11 Q What did you understand the phrase to get rolling
12 again to mean?

13 MR. SUNDEN: Objection.

14 THE COURT: I will sustain the objection.

15 Q Proceed, Mr. Pannirello. What did you say to
16 him?17 A I said okay and we agreed upon that I would
give him two ounces.18 MR. SUNDEN: Objection to a conclusion which is
not words said.19 THE COURT: All right. Tell us exactly what was
20 said, if you can.21 A I asked him how much he wanted and he said, "I
want to start off small because, like I said, I don't have
22 any money."

23 So I said, "Okay, I'll give you two ounces."

1 hpl1

H.Pannirello-direct

2 And he said, "Fine."

3 Q Two ounces of what?

4 A Of heroin.

5 Q How much was he to pay for it?

6 A \$2000.

7 Q Did you give him two ounces of heroin?

8 A Yes.

9 Q Did he pay you \$2000?

10 A No, he didn't pay me the full amount.

11 Q How much did he pay you?

12 A 15 or 16 hundred dollars.

13 Q Did you attempt to get the rest from him?

14 A Yes, I did.

15 Q How did you attempt it?

16 A Well, I was up at Hattie Ware's apartment and
17 I told Hattie Ware, I said, "When your brother has the
18 rest of the money to give it to you."

19 Q What did she say?

20 A She said okay.

21 Q Did you ever get the money?

22 A No.

23 Q Did you ever give Hattie Ware money?

24 A Yes.

25 Q When?

1 hpl2

H.Pannirello-direct

2 A I don't recall when.

3 Q Did you give it to her more than once?

4 A Yes.

5 Q How much did you give her?

6 A At one particular time or --

7 Q Yes.

8 A \$100, \$150.

9 Q Do you know approximately how many times you gave
10 her that amount of money?

11 A Four or five times.

12 Q What was the money for?

13 A Well, I would give her money periodically to --
14 for herself because I was using her apartment in making
15 the moves with Basil.16 Q Did you purchase any more narcotics from Carmine
17 Pugliese after that?

18 A Yes.

19 Q Do you recall how much the next purchase was for?

20 A Yes. It was for three kilos.

21 Q Was there anything unusual about the three kilos
22 that were purchased?

23 A Yes, there was.

24 Q What?

25 A It had a strong odor of vinegar.

1 hpl3 H.Pannirello-direct

2 Q Do you recall who picked it up from Carmine
3 Pugliese?

4 A I don't recall, no, but it was either myself or
5 I directed my brother to.

6 Q Your brother's name is what?

7 A John.

8 Q Did you sell the three kilos?

9 A No.

10 Q Did you sell any of it?

11 A Yes.

12 Q How much?

13 A Half a kilo.

14 Q To whom did you sell it?

15 A To Allen.

16 Q Where did you deliver it to him?

17 A In New Jersey at --

18 MR. LEIGHTON: Judge, could we have a date for
19 this alleged transaction?

20 THE COURT: Yes.

21 Q Can you tell us when this was, Mr.Pannirello?

22 A Yes. In April.

23 Q Of 1972?

24 A Yes.

25 Q Where did you deliver it to him?

2 A There is a Carvel ice cream place in Leonia,
3 New Jersey.

4 Q Did you make the delivery?

5 A I don't recall if it was myself or if I directed
6 my brother-in-law Jimmy to make the delivery.
7 Q Did Allen pay you for it?

8 A Yes.

9 Q How much?

10 A To the best of my recollection, 17 or 18 thousand
11 dollars.

12 Q Did he pay the whole amount?

13 A No.

14 Q How much did he pay?

15 A He had a down payment of --

16 Q Of how much?

17 A I think it was 9 or 10 thousand dollars, and he
18 was to give me the balance after he moved the package.

19 Q What do you mean by move the package?

20 A Sell the rest of the narcotics that he had left.

21 Q What did you do with the money that he did give
22 you?

23 A I brought it over to Pat Dilacio.

24 Q You gave it all to him?

25 A No. We both took money out of it.

1 hp15

H.Pannirello-direct

2 Q How much did you take out of it?

3 A I don't recall.

4 Q What did you do with the amount that you didn't
5 take out?6 A We sent, me and Pat -- Pat took \$5000 of the
7 amount and brought it to Mr. Pugliese's wife, Butch
8 Pugliese's wife, Anna.

9 Q What did you do with the rest --

10 MR. ROSENBERG: If your Honor please, I am going
11 to object to that statement as a conclusion also unless he
12 was present when it was delivered. I ask that it be stricken.13 THE COURT: All right. Mr. Phillips, you want
14 to ask the questions or do you want me to?15 Q Mr. Pannirello, did you take the money to Butch
16 Pugliese's wife?

17 A No.

18 Q Did Patty say that he was taking the money to
19 Butch Pugliese's wife?

20 A Yes.

21 Q What did you do with the other two and a half
22 kilos of this heroin that smelled somewhat like vinegar?23 A Well, none of our customers wanted it, so me and
24 Pat decided to give it back to Carmine.

25 Q Did you?

H.Pannirello-direct

2 A Yes.

3 Q When was that?

4 A Two to three weeks later.

5 Q Between that time and the end of May of 1972
6 did you and Patty or Pat make any further purchases of
7 narcotics from Carmine Pugliese?

8 A Yes.

9 Q If you can recall, do you remember how much you
10 bought?

11 A No, not exactly.

12 Q Do you know approximately how much?

13 A Four kilos.

14 Q Do you know whether or not you sold it all?
15 A Yes.

16 Q Do you know to whom you sold it?

17 A To Allen. Some went to Al Greene.

18 Q Anybody else?

19 A No.

20 Q How much of it did you sell to Allen, do you
21 recall?

22 A Two kilos, three kilos maybe.

23 Q Did he pay for it all?

24 A Yes.

25 Q Did you sell any to Basil at this time?

1 hp

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2 A No.

3 Q Was there a reason for that?

4 A Yes. We didn't --

5 MR. ELLIS: Objection.

6 THE COURT: Read back the last two questions,
7 please.

8 (Record read.)

9 MR. SUNDEN: I join in that objection, your
10 Honor.

11 THE COURT: Don't do it so fast.

12 Mr. Phillips, you want to come up.

13 (At the side bar.)

14 THE COURT: If this is another situation where
15 the car broke down on the Turnpike --

16 MR. PHILLIPS: It's equally as innocuous probably
17 It's Basil owed themmoney ,and they cut Basil out, they
18 didn't sell narcotics to him any more.

19 THE COURT: Basil owed themmoney and for that
20 reason they wouldn't sell him any narcotics?

21 MR. PHILLIPS: Right.

22 THE COURT: I was afraid that Basil might have
23 gone to jail or something.

24 Do you want to extend your objection?

25 MR. SUNDEN: Yes, I do. Maybe this evidence

1 hp

H.Pannirello-direct

2200

2 can be brought out in some other legitimate way, but as it
3 stands now it would appear to call for the operation of
4 this witness's mind.

5 THE COURT: That is a shortcut way of doing it.

6 Do you have any other objection?

7 MR. ELLIS: I object to sales that didn't take
8 place, Judge. We have enough problem with those that did
9 take place. For whatever reason, it didn't take place, it
10 doesn't belong in this record, I don't think.

11 MR. SUNDEN: I agree with that reasoning also.

12 MR. PHILLIPS: I don't think this is asking for
13 an operation of anybody's mind, your Honor. I think this
14 is stating a fact, that's all. The fact is that he owed
15 them money and that is why they cut him out. That is not
16 a question of the operation of anybody's mind.

17 THE COURT: I am afraid that if we leave it
18 with the question having been asked and no answer and
19 a side bar the jury might take some inference which might
20 be inappropriate. If it's just a question of "We didn't
21 sell it to him because he owed us money," I don't think
22 it's going to hurt any defendant that is presently on trial.
23 That is what I am trying to avoid.

24 MR. SUNDEN: Are you in a position to say that
25 that is the extent of the response and you are going to

1 hp

H.Pannirello-direct

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2 leave that and go on to other areas?

3 MR. PHILLIPS: I think he mentions how much he
4 owed them -- I am not sure -- \$10,000 or something.

5 MR. SUNDEN: If that is all there is to the
6 subject ...

7 THE COURT: All right.

8 (In open court.)

9 BY MR. PHILLIPS:

10 Q Mr. Pannirello, was there a reason that you
11 did not sell any of the narcotics that you just mentioned
12 to Basil?

13 A Yes, there was.

14 Q Would you tell us what the reason was?

15 A Basil owed us quite a bit of money and me and
16 Pat decided not to give him any more goods until he paid
17 us the money that he owed us.

18 Q Did you ever sell him any goods after that?

19 A No.

20 Q Would you tell us, tell the jury, the arrange-
21 ments you had with Allen with respect to the narcotics you
22 sold him in the spring of 1972?

23 A The arrangements were either myself or I directed
24 my brother-in-law Jimmy to make the deliveries to Allen.

25 Q Where were the deliveries to be made?

1 hp

H.Pannirello-direct

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2 A They were to be made at Howard Johnson's Restau
3 ant on Route 46 in Jersey.

4 Q What rate was Allen paying for these narcotics?

5 A 37,000 a kilo.

6 Q Where did you keep the narcotics that you
7 purchased from Carmine Pugliese, the approximately four
8 and a half kilos that you mentioned?

9 A It was kept at Sinatra's.

10 Q Were you paying --

11 MR. KING: May we have a time, please.

12 MR. PHILLIPS: The time has already been testi-
13 fied to, your Honor.

14 THE COURT: I think the time has already been
15 gone through.

16 Q Were you paying him \$300 a week for this?

17 A Yes.

18 MR. KING: Objected to as asked and answered
19 already.

20 THE COURT: No, I don't believe it was.
21 I will permit it to stand.

22 MR. KING: I have it here in my notes.

23 Q Mr. Pannirello, do you know a person by the
24 name of Frank Russo?

25 A Yes.

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2 Q Do you see him in the courtroom?

3 A Yes, I do.

4 Q Would you point out where he is sitting and what

5 he is wearing?

6 A He is sitting to my right. He is wearing a

7 gray suit and a blue shirt and a dark tie.

8 MR. DOWD: Stipulated it's the defendant Frank

9 Russo.

10 Q Did you know him in the spring of 1972?

11 A Yes.

12 Q Did you have any narcotics transactions with him

13 in the spring of 1972?

14 A Yes.

15 Q Could you tell us what they were, what occurred?

16 A Pat Dilacio called me at my home one evening.

17 Q Do you recall what month this was?

18 A No, I don't. It was some time in the spring.

19 Q All right. Proceed. What did he say?

20 A Pat told me to come down to his apartment that

21 night, that Francis, meaning Francis Russo, was going to be

22 at his apartment that night and he wanted me to be there,

23 and I went down to his apartment that night and Francis

24 was there and Francis wanted a half a kilo.

25 MR. DOWD: Objection, your Honor.

2 THE COURT: Don't tell us what you think he wanted
3 Tell us what was said. All right?

4 THE WITNESS: Yes.

5 THE COURT: All right.

6 A Francis said to me and Pat that he wanted a half
7 a kilo and we agreed to it.

8 Q Agreed to what?

9 A To give it to him. I don't recall who actually
10 gave it to him. I don't know if it was myself or if it was
11 Pat Dilacio.

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2 Q Was a price agreed upon when you had that first
3 meeting?

4 A Yes, there was.

5 Q What was the price?

6 A I don't recall what the price was.

7 Q Can you approximate what the price was?

8 A No.

9 MR. DOWD: Objection, your Honor.

10 THE COURT: He just said no.

11 Q And did Mr. Russo pay for the half a kilo
12 at the agreed price?

13 A No, he didn't.

14 Q Why was that?

15 A Because the party he was giving it to --

16 MR. DOWD: Objection.

17 Q Is this what he told you?

18 A Yes.

19 Q What did he tell you?

20 A He said, "The guy who I'm giving the half to
21 don't want to pay the price for the goods that you
22 are giving me," so me and Pat says, "Okay, give it back
23 to us."

24 Q Did he give it back to you?

25 A Yes.

2 Q Between the end of May of 1971 and the end of
3 September, 1972, did you have any narcotics transac-
4 tions?

5 A I don't recall any.

6 Q During that period of time did you havd occa-
7 sion to go to Florida?

8 A Yes.

9 Q Do you remember when?

10 A It was in June.

11 Q What time in June, what part of June?

12 A The middle of June.

13 Q And when did you come back? When did you come

14 A The first week of July.

15 Q Before you left, did you give any instructions
16 to your brother-in-law Jimmy Provitero?

17 A Yes, I did.

18 Q What did you tell him?

19 A I told him to keep in touch with Allen while
20 I was away.

21 Q Did you tell him why?

22 A Yes. Allen owed me some money.

23 Q How much did he owe you?

24 A Approximately \$5000.

25 Q What did you tell Jimmy with respect to that?

1 gta3

H. Pannirello-direct

2207

2 A I told Jimmy to stay in touch with Allen and
3 to try and get the money from him while I was away.

4 Q Do you know whether he ever got it?

5 A I don't recall.

6 Q What happened at the end of September, if you
7 can recall?

8 A Yes. Myself and my brother-in-law Jimmy
9 called Allen and I spoke to Allen over the telephone,
10 and I told Allen that I'd have some goods for him within
11 a week, to sit tight.

12 Q What did he say?

13 A And Allen says, "Okay, good, I'm happy to hear
14 from you, it's been a long time."

15 Q Did you get goods for him that week?

16 A No.

17 Q Were you in touch with him?

18 A Two or three weeks later I was in touch with
19 him again.

20 Q By telephone?

21 A Yes.

22 Q What did you say to him?

23 A I called him on the telephone and I told
24 him to come up, that I had some goods for him.

25 Q What did he say?

1 gta4

H. Pannirello-direct

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2 A He says, "okay, good."

3 Q Did he come up?

4 A Yes.

5 Q Do you recall when?

6 A No, I don't, but it was -- it was another two
7 or three weeks after that.

8 Q Do you recall what month that was?

9 A November.

10 Q Did you meet him?

11 A Yes.

12 Q Where?

13 A I met him at Howard Johnson's restaurant in
14 New Jersey, but I also met someone else there.

15 Q This is on Route 46?

16 A Yes.

17 Q Tell us exactly what happened.

18 A The night I was supposed to have met Allen at
19 the restaurant me and my brother-in-law drove over there
20 in my car and we were sitting in the parking lot of the
21 restaurant and we were there for five or ten minutes
22 waiting there and a fellow walked over to my car and he
23 looked in the window and he said, "Harry?"

24 I said, "Yeah."

25 He said, "Allen told me to come up to see you."

1 gta5

H. Pannirello-direct

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2 He said, "I'm Salley."

3 Q Had you ever met this person before?

4 A No.

5 Q What did you say?

6 A I said, "Is Allan here yet?"

7 He said, "No."

8 So the three of us walked into the restaurant
9 and we sat in a booth, and I asked Salley where Allen
10 was, and he said, "He's on his way up by plane from D.C.
11 He should be here at any time."

12 So we waited --

13 Q Before you go any further, Mr. Pannirello, do
14 you see this person Salley in the courtroom?

15 A No, I don't.

16 Q Would you come down here and, starting with me,
17 look all the way around the courtroom again?

18 A No.

19 Q Would you take your seat again.

20 MR. POLLACK: May I --

21 Q Tell us then what occurred.

22 A We were sitting in the restaurant for an
23 hour or so and I asked Salley if he was staying at the
24 hotel -- at the motel, at the Howard Johnson's Motel, and
25 he said yes.

2 And I said, "All right, I'll tell you what.

3 I'll call you here later," I says, "and you can tell
4 me if Allen is there or not."

5 So he gave me the room number that he was
6 staying in and myself and my brother-in-law and Salley
7 walked out of the restaurant and he walked toward the
8 motel and me and my brother-in-law got into the automobile
9 and I happened to look in my rear-view mirror and I saw
10 taxicab pull into the parking lot and I saw Allen get
11 out of the taxicab.

12 Q What did you do then?

13 A I told my brother-in-law Jimmy, "I says, "Jimmy,
14 let's turn around here, I see Allen." ~~and have him go away~~

15 So I turned the car around, I went to the
16 motel, towards the motel. I parked the car, and my-
17 self and Jimmy got out of the automobile and we went
18 into the motel and I knocked on the door of the room and
19 Allen came to the door and opened the door and myself
20 and Jimmy went into the room.

21 Q What happened after you went into the room?

22 A The four of us were in the room, myself,
23 Allen and Salley, and I asked Allen if he brought
24 me the money and he said yes. He says, "I brought you
25 \$9000" -- excuse me; he said, "I brought you \$19,000,

1 gta7

H. Pannirello-direct

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2 5000 that I owe you," he says, "and I have 14,000 for
3 a down payment on goods."

4 And I said, "Good."

5 Q What happened after that?

6 A We made arrangements for delivery for the
7 next night. To the best of my recollection now, my
8 brother-in-law Jimmy made that delivery.

9 Q How much was it?

10 A One kilo.

11 Q Where did the kilo come from?

12 A From Carmine.

13 Q Who purchased it from Carmine? ~~from Carmine~~

14 THE COURT: You mean Carmine Pugliese, right?

15 THE WITNESS: Yes.

16 Q Who purchased it? Who picked it up,
17 rather?

18 A I don't recall. Either my brother or my
19 brother-in-law.

20 Q Did you ever see Allen after that occasion?

21 A No.

22 Q Did you ever see Salley again?

23 A No.

24 Q Was that theonly time you ever saw Salley?

25 A Yes.

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2 Q As of that time when was the last time you had
3 seen Tennessee?

4 A Quite a few months.

5 Q Some time after that did you have occasion to
6 meet a person named Al from Washington, D.C.?

7 A Yes.

8 Q Did you see him in the witness room earlier
9 today?

10 A Yes.

11 Q Who introduced you to him?

12 A Tennessee.

13 Q Tell us the circumstances of how you were
14 introduced to him. introduced to him.

15 A Well, I was having problems with Allen. He
16 owed me money and he wasn't coming up with it. So I
17 kept calling him and calling him and he just never came
18 up to give me any money. So I decided to call Ten-
19 nessee and see if Tennessee can help me get the money from
20 Allen.

21 I did call Tennessee, it was in December, the
22 end of December.

23 Q 1972?

24 A Yes.

25 Q What happened?

2 A Tennessee said that he would be up the
3 following week, and I said, "Okay, fine."

4 That following week he didn't come up, so that
5 same night that I was to meet him or two days after that
6 I called him again, and then he told me that he'd be up
7 definitely the following week.

8 Q What happened the following week?

9 A I met him the following week at the Howard
10 Joynson's restaurant on Route 46, and he had with him a
11 fellow by the name of Allen, Al, so he called him.

12 Myself and my brother went to the restaurant
13 to meet him, and the four of us sat in a booth and
14 Tennessee introduced me to Al, and I explained to Tennessee
15 what had happened with Allen and I asked Tennessee
16 if he can help me, and Tennessee said, "Yes, I'll see
17 what I can do for you."

18 I also asked Tennessee how everything was
19 going, and Tennessee said, "Not too good. I got that
20 damn store down there that's not doing too good."

21 So I says, "Well, you want to do something?"

22 So Tennessee said, "Yes," he says, "do it
23 with Al."

24 Q What did you say?

25 A And I said, "Okay."

2 Q Did you make any arrangement with Al?

3 A Yes.

4 Q To do what?

5 A To bring him a quarter kilo.

6 Q Did you tell Patty about this, Pat Dilacio?

7 A Yes, I did.

8 Q What did he say?

9 A He said, "Okay, fine."

10 Q Did he say anything else?

11 A Yes, yes. He also said that Francis wanted
12 a quarter also.

13 Q You mean Frank Russo? You mean Frank Russo?

14 A Yes. Yes.

15 MR. DOWD: Objection, your Honor.

16 THE COURT: I will permit it.

17 Go ahead.

18 Q What did he say specifically?

19 THE COURT: Who are we talking about?

20 Q What did Pat Dilacio say specifically?

21 A Yes. Pat Dilacio told me that Francis Russo
22 wanted a quarter.

23 So I said, "Okay, good." I said, "We'll
24 give Francis the goods the same night that we are going
25 to give Al the goods."

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H. Pannirello-direct

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2 Q Did Pat Dilacio agree to that?

3 A Yes.

4 MR. DOWD: Can we have a time for the conver-
5 sation, your Honor?

6 Q Do you recall when that was, Mr. Pannirello,
7 when that conversation you just testified about occurred?

8 A Some time in January.

9 Q 1973?

10 A Yes.

11 Q As a result of that conversation you had with
12 Pat Dilacio what did you do?

13 A I directed my brother-in-law, Jimmy to go down
14 to the Bronx that night and meet my brother there and
15 my brother would give him the quarter to give to Al.

16 Q Where in the Bronx was your brother-in-law
17 supposed to meet your brother?

18 A On Pelham Parkway.

19 Q What happened after that, if you recall?

20 A After that -- well, I was there when my
21 brother-in-law Jim my gave the package to Al. I was in
22 the area at the time.

23 Q Was this the first time you gave any package
24 of narcotics to Al?

25 A Yes.

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2 Q Was this in January of 1973?
3 A Yes.
4 Q Did you make any other sales of narcotics to
5 Al?
6 A Yes.
7 Q How many?
8 A Two others.
9 Q And on the third one were you arrested?
10 A Yes.
11 Q Were you, your brother-in-law and your brother
12 indicted as a result of the sales to Al?
13 A Yes. Yes.
14 Q Is that because Al was a federal agent?
15 A Yes.
16 Q Have you pleaded guilty?
17 A Yes.
18 Q In New Jersey, the federal court in New
19 Jersey?
20 A Yes.
21 Q How many counts have you pleaded guilty to?
22 A Two.
23 Q Out of how many counts in the indictment?
24 A Four.
25 Q Are you currently awaiting sentence on that

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2 plea of guilty?

3 A Yes.

4 Q Did Butch Pugliese at any time ever mention
5 anybody by the name of Vinnie?

6 A Yes, he did.

7 Q Did he ever mention his last name?

8 A No.

9 Q Did he say where he was from?

10 A Not exactly where; just Queens or Long Island
11 somewhere.

12 Q What did he say about Vinnie?

13 MR. ROSENBAUM: Your Honor, I would have to
14 object to this.

15 THE COURT: No, I will permit it.

16 Go ahead.

17 A I don't recall when or where it was, but he
18 said that this Vinnie was partners with Joseph DiNapoli.

19 Q Partners in what?

20 A ---In drugs.---

21 Q Before you testified here did you and I
22 discuss your testimony?

23 A Yes.

24 MR. ROSENBAUM: Your Honor, may I have a
25 side-bar conference with the government?

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2 THE COURT: Yes.

3 (At the side bar.)

4 MR. ROSENBAUM: Your Honor, I represent
5 Vincent D'Amico. Apparently the Vinnie referred to
6 here is Vinnie Papa, who has nothing to do with
7 Vincent D'Amico, a totally different person. In
8 view of the fact that this Vinnie is the only Vinnie in
9 this indictment in this case, it is highly prejudicial in
10 that the jury may interpret that it is the Vinnie sitting
11 right next to --

12 MR. PHILLIPS: We will stipulate that it is
13 not the government's contention that the Vinnie referred to just now by the witness is Vinnie D'Amico, the
14 defendant here.

16 MR. ROSENBAUM: I would like the jury to
17 hear that, your Honor.

18 THE COURT: Now.

19 MR. ROSENBAUM: Yes, to exclude my client.

20 MR. PHILLIPS: Sure.

21 MR. ROSENBAUM: Thank you.

22 (In open court.)

23 THE COURT: Do you want to do the stipulation
24 now?

25 MR. PHILLIPS: Certainly, your Honor.

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2 THE COURT: All right.

3 Ladies and gentlemen, you recall I told you
4 about what a stipulation was. That is when both sides
5 agree that a certain fact is true and in fact the fact.

6 -- Now, we have a stipulation entered into
7 between the United States Government and Vincent D'Amico,
8 by George David Rosenbaum, who is the attorney for
9 Vincent D'Amico.

10 The stipulation, basically, is that it is not
11 the government's contention that any Vinnie referred to
12 just a couple of minutes ago refers in any way to Vin-
13 cent D'Amico.

14 Is that correct, gentlemen?

15 MR. PHILLIPS: That's correct.

16 MR. ROSENBAUM: Yes, your Honor.

17 THE COURT: All right.

18 BY MR. PHILLIPS:

19 Q Mr. Pannirello, I show you what has been
20 marked as Government's Exhibit 61 in evidence.

21 Can you identify the person in that photograph?

22 A Yes.

23 Q Who is that?

24 A Paulie the Arrow.

25 Q The same individual you testified that you met

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2 up at Hank's house?

3 A Yes.

4 Q Now I show you what have been marked as
5 Government's Exhibits 76 and 77 for identification.

6 -- Can you identify what is depicted in those
7 photographs? --

8 A Yes. This is the alleyway leading to the garage
9 that Butch Pugliese kept his construction equipment in,
10 and this is the door. --

11 Q When you say "this" you were referring to
12 Government's Exhibit 76 for identification as the alley-
13 way? --

14 A Yes. Yes.

15 Q And what is in Government's Exhibit 77 for
16 identification?

17 A The door on the garage.

18 Q Is that the garage itself there?

19 A Yes, sir.

20 Q -- I show you what has been marked as Govern-
21 ment's Exhibit 70 for identification. Can you tell us
22 who the individuals are in that photograph?

23 A Yes. Hattie Ware, Bunny and Butch Pugliese.

24 Q Which one is Bunny and which one is Hattie
25 Ware?

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2 A On the left is Hattie Ware and on the right is
3 Bunny.

4 Q When you say "Bunny" are you referring to
5 Basil's girlfriend?

6 A Yes.

7 Q I show you what has been marked as Government's
8 Exhibit 69 for identification. Can you identify any
9 of the individuals in that photograph?

10 A Yes.

11 Q Would you go from left to right as you see
12 them in the photograph?

13 A Butch Pugliese, Hattie Ware, Bunny and Basil.

14 Q Can you identify any of the other individuals?

15 A No.

16 Q Which one is Basil?

17 A (Indicating).

18 Q Indicating the one on the far right?

19 A Right.

20 Q Now I show you what have been marked Govern-
21 ment's Exhibit 75 for identification. Can you identify
22 those two individuals?

23 A Yes, Basil and Bunny.

24 Q How about Government's Exhibit 68 for identi-
25 fication?

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H. Pannirello-direct

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2 A Basil and Bunny also.

3 Q How about Government's Exhibit 71 for identi-
4 fication?

5 A Basil and Bunny also.

6 Q How about Government's Exhibit 72 for identifi-
7 cation?

8 A Basil and Bunny also.

9 Q How about Government's Exhibit 73 for identifi-
10 cation?

11 A Basil and Bunny.

12 Q How about Government's Exhibit 74 for identi-
13 fication?

14 A Basil and Hattie Ware.

15 Q How about Government's Exhibit 67 for identi-
16 fication?

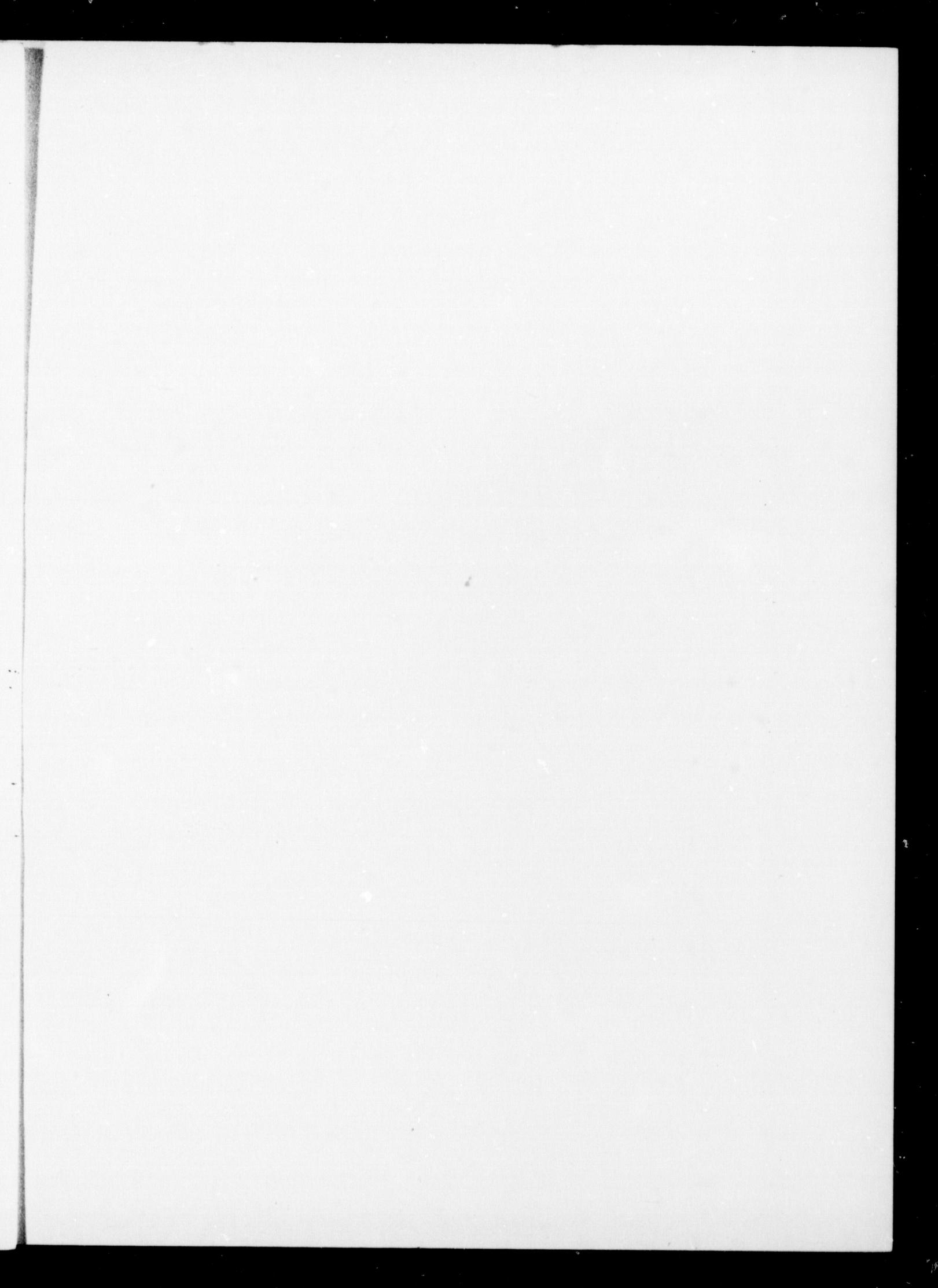
17 A Basil.

18 MR. PHILLIPS: May this be marked as the
19 next government's exhibit, your Honor.

20 (Government's Exhibit 78 was marked for iden-
21 tification.)

22 Q I show you, Mr. Pannirello, what has just
23 been marked Government's Exhibit 78 for identification.
24 Can you tell us what this is?

25 A Yes. That's a rough sketch of Joseph



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2 DiNapoli's girlfriend's house.

3 Q Did you do that?

4 A Yes, sir.

5 Q This is the house on Bronxdale Avenue?

6 A Yes, sir.

7 Q Which floor?

8 A The main floor.

9 MR. PHILLIPS: Your Honor, at this point the
10 government offers those exhibits that the witness has
11 just identified, which include those photographs that
12 have not already been received and the diagram.

13 THE COURT: Hold them. THE COURT: Hold them.

14 All right, ladies and gentlemen, I am sorry I
15 worked you a little late today, but we had kind of an
16 easy morning -- at least you did, I wish I could say the
17 same.

18 Have a pleasant evening.

19 Mr. Marshal, would you be good enough to
20 take out the jury.

21 (The jury left the courtroom.)

22 THE COURT: Gentlemen, I would suggest that
23 you arrive about 15 or 20 minutes early tomorrow. There
24 are a pile of photographs which I am sure you will want
25 to go through and formulate your objections to them.

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2 I will try and take any objections you might have before
3 the time to call the jury back.

4 I understand there will be some applications
5 also in connection with the transcription of certain tapes,
6 but let us find out what today's transcription has brought
7 forth.

8 Other than those -- yes, Mr. Pollack?

9 MR. POLLACK: I would like at this time
10 to make a statement for the record, your Honor, that at
11 the time the witness was asked to identify Mr. Salley,
12 Mr. Salley was sitting in the courtroom and in fact he
13 was sitting behind Mr. King and myself, which to my way
14 of looking is in the direct line of vision from the witness
15 chair to where he was sitting.

16 MRS. ROSNER: Judge, can I suggest some-
17 thing?

18 THE COURT: Yes.

19 MRS. ROSNER: I am expecting the remainder
20 of the Pannirello transcription late tonight, I am
21 not sure of what time. What I can do is this.

22 How many copies do we need? I will have
23 Adler make up as many copies that are going to inquire.
24 We can have them at 8 or 8:30 in the morning.

25 MR. LOPEZ: Ten, one for the government.

2 THE COURT: All right. Would you need
3 10? I don't know. Who is going to inquire?

4 MR. LOPEZ: I will have a list for your
5 Honor.

6 THE COURT: There are seven.

7 MR. LOPEZ: I am sure yet, your Honor.

8 THE COURT: If you get 10, we will be in
9 good shape. Okay.

10 Everybody else, with the exception of Mr. King
11 and his client, are released. Come back at 10:30.

12 MRS. ROSNER: Your Honor, before the
13 prisoners leave, you have not made a ruling in connection
14 with an application I made in chambers.

15 ---THE COURT: Come on up, Mrs. Rosner.

16 (At the side bar.)

17 THE COURT: Note here a side-bar conference
18 is being held at which Mr. King and Mr. Gamba are present;
19 Mr. Phillips is standing off in the background.

20 Mr. Gamba, I have had it with you. You
21 have been standing up disturbing this court in more
22 ways than one. You have been up and down, yelling out
23 things, and as far as I am concerned you are completely
24 in contempt of court.

25 Today's outburst was inexcusable and for that

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2 reason I am citing you for contempt of court and I believe
3 that an appropriate term in prison would be the thing to
4 stop this kind of nonsense.

5 You are sentenced for contempt of court to
6 a period not to exceed five days. Do you understand
7 that?

8 DEFENDANT GAMBA: I don't, your Honor.

9 THE COURT: I have been more than good with
10 you and every other defendant. For the life of me I
11 can't understand your rude, obnoxious behavior.

12 DEFENDANT GAMBA: Can I speak, your Honor?

13 THE COURT: Yes, you can speak. Yes, you can.

14 Mr. King, do you want to say something first?

15 MR. KING: I would ask your Honor to
16 suspend your judgment and give the defendant one more
17 opportunity. I think it is his nervousness, his
18 frustration and his misunderstanding of the procedure
19 and I would respectfully ask your Honor to suspend judg-
20 ment, that you have warned him about it, have your
21 warning stand for future conduct.

22 THE COURT: Go ahead, do you want to say
23 something?

24 DEFENDANT GAMBA: Yes, I do, your Honor.

25 I mean no disrespect toward you or Mr. Phillips

2 or Mr. Curran. It wasn't a planned outburst. The
3 fact that he mentioned my wife -- I don't know. I
4 can't explain it. It was a natural -- I was sorry
5 after I said it and --

6 MR. KING: He is just high-strung, Judge.

7 THE COURT: All right. Because of your
8 request, Mr. King, I will suspend the entire things this
9 time, but if it happens again, it is not going to be
10 five days, it is going to be a heck of a lot longer than
11 that. Do you understand?

12 DEFENDANT GAMBA: Yes, I do.

13 THE COURT: I don't want to repeat performance.

14 DEFENDANT GAMBA: I won't repeat it, your Honor.

16 MR. KING: Off the record.

17 (Discussion off the record.)

18 (At the side bar.)

19 MR. DOWD: Judge, I want to formally make
20 an application on behalf of my client, Frank Russo, in
21 respect to the fact I told your Honor before off the
22 record that his wife is having a Caesarean section to-
23 morrow morning. He is very concerned about it. The
24 history is three miscarriages and they have been unable
25 to have children up to this time. He is very worried

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2 about it. He has called the hospital and he will be
3 back here at 12 at the latest, you know, barring any
4 complications.

5 It is a serious thing and I think in light
6 of that and in light of the testimony this afternoon I
7 would ask for a continuance until at least 12 o'clock.

8 THE COURT: A continuance? No way.
9 Everybody here tomorrow at 10 o'clock.

10 MR. DOWD: I respectfully except, your
11 Honor.

12 (Adjourned to February 15, 1974, at 10:00
13 a.m.)

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WITNESS INDEX

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NameDirect Cross Redirect Recross

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Albert Logan
(Resumed)

5

2068 2110

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Harold Pannirello

2113

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EXHIBIT INDEX

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Government

In

Identification Evidence

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